HOUSE OF REPRESENTATIVES

Tuesday, July 05, 2022

The House met at 10.00 a.m.

PRAYERS

[Madam Speaker in the Chair]

SOROPTIMIST CLUB OF PORT OF SPAIN (INC’N) (AMDT.) BILL, 2022

Bill to amend the Soroptimist Club of Port-of-Spain (Incorporation) Act, 1972 (Act No. 26 of 1972), brought from the Senate, [Mrs. Bridgid Annisette-George] read the first time.

TRINIDAD AND TOBAGO ASSOCIATION FOR RETARDED CHILDREN (INC’N) (AMDT.) BILL, 2022

Bill to amend the Trinidad and Tobago Association for Retarded Children Ordinance, 1961 (Ordinance No. 15 of 1961), brought from the Senate, [Mrs. Bridgid Annisette-George] read the first time.

Motion made: That the next stages be taken later in the proceedings. [Mrs. Bridgid Annisette-George]

Question put and agreed to.

PAPERS LAID

1. Motor Vehicles and Road Traffic (Extension of Period for Payment of Fifty Percent of Fixed Penalty) (No. 2) Order, 2022. [The Minister of Health (Hon. Terrence Deyalsingh)]


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4. Administrative Report of the MIC-Institute of Technology Limited for the period October 01, 2016 to September 30, 2017. [Hon. Dr. N. Gadsby-Dolly]

5. Delegation Report on the Parliamentary Gathering on the occasion of the Ninth Summit of the Americas held in Los Angeles, California, USA from June 6 to 7, 2022. [The Deputy Speaker (Mr. Esmond Forde)]

6. Notification of Her Excellency, the President, in respect of the nomination of Mr. Ramnarine Samaroo, for appointment to act in the Office of Deputy Commissioner of Police. [Mr. E. Forde]

7. Ministerial Response of the Ministry of Social Development and Family Services to the Second Report of the Joint Select Committee on Human Rights, Equality and Diversity on the Human Rights of Socially Displaced Persons in Trinidad and Tobago with specific focus on their treatment and relocation from Port of Spain public spaces. [Hon. T. Deyalsingh]

**JOINT SELECT COMMITTEES REPORTS**

(Presentation)

**Foreign Affairs**

(Inquiry into the Status of the CSME in Trinidad and Tobago)

**The Minister of Health (Hon. Terrence Deyalsingh):** Many thanks again, Madam Speaker. Madam Speaker, I have the honour to present the following report:


**Fisheries Management (No. 2) Bill, 2020**

**The Minister of Labour (Hon. Stephen Mc Clashie):** Madam Speaker, I have the honour to present the following report:

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URGENT QUESTIONS

Reoccurrence of Violence and Rioting Experienced
(New and Urgent Preventative Steps)

Dr. Roodal Moonilal (Oropouche East): Thank you very much, Madam Speaker. To the Minister of National Security: Will the Minister indicate what new and urgent steps have been taken to prevent the reoccurrence of the violence and rioting experienced yesterday?

Madam Speaker: The Minister of the National Security. The Minister of National Security (Hon. Fitzgerald Hinds): Thank you very much. Madam Speaker, the incident that occurred to which the Member refers is not new. We have been here before. Consequently, resolutions are not necessarily new, but certainly immediate. Insofar as the question is concerned, the first item on the agenda was heavy law enforcement presence, meaning police, Trinidad and Tobago Defence Force, Trinidad and Tobago Fire Service, to quell and to put an end to it and that was effectively done within two hours.

Hon. Members: [Desk thumping]

Hon. F. Hinds: The other item was further an enhanced deployment of intelligence resources so as to ensure that advanced information will be forthcoming to prevent the kinds of flare ups that are likely in those kinds of circumstances. Thirdly, to urge and direct the protestors who have a right in this democracy to express themselves but to direct them especially those who broke the law yesterday, including arson, attacks on the police with bottles and other missiles, especially those who break the law, to direct them and urge them towards the more civilized and lawful paths to expressing their emotions and grievances of
which there are many in this society, including reports to the Police Complaints Authority where it involves concerns or complaints against police officers. That process has worked many times and to assure the protestors that it will work again. And finally, Madam Speaker, as happened all of last night to maintain strong presence—

_Madam Speaker:_ Member.

_Hon. F. Hinds:_—so that it will not happen again.

_Madam Speaker:_ Member, your time has now spent.

_Hon. F. Hinds:_ Thank you.

_Hon. Members: [Desk thumping]

_Madam Speaker:_ Member for Oropouche East.

_Dr. Moonilal:_ Minister, in the context of your response that there is really nothing new, does the incidence yesterday suggest a collapse of the intelligent services to warn—

_Hon. Members: [Desk thumping]

_Dr. Moonilal:_—off and pre-empt such mayhem and madness which we experienced yesterday?

_Hon. Members: [Desk thumping]

_Hon. F. Hinds:_ Those who instigate, and encourage, and feel they could benefit from that kind of activity including criminality might want to think so, but I give you the assurance, Madam Speaker, that was not the case. The intelligent agencies were on top of it and will continue so to do.

_Hon. Members: [Desk thumping]

_Dr. Moonilal:_ Mr. Minister, my final supplemental question. When will you resign as an utter failure as Minister of National Security?

_Hon. Members: [Continuous desk thumping]

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Madam Speaker: Order! Member for Oropouche East, that is not allowed. It is not a supplemental arising out of the question. Member for Cumuto/Manzanilla.

Cumuto/Manzanilla Constituency (Addressing of Landslides)

Dr. Rai Ragbir (Cumuto/Manzanilla): Thank you, Madam Speaker. To the hon. Minister of Works and Transport: Given the many landslides occurring in Cumuto/Manzanilla constituency subsequent to the recent passage of Potential Tropical Cyclone Two, will the Minister state what is being urgently done to address these latter issues?

Madam Speaker: All right. So Members, if we could proceed with a certain amount of decorum, I think both Member for Oropouche East and the Minister of National Security already had their opportunity. So if they will give respect so that other Members can have their opportunity. Minister of Works and Transport.

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam Speaker. Madam Speaker, the constituency of Cumuto/Manzanilla is another constituency that is prone to landslips. In the Bonaire Road which falls under the constituency of the Cumuto/Manzanilla, there are three existing landslips. Due to the recent passing of the tropical cyclone two, one of these landslips at the 0.5 kilometres mark, has deteriorated. The Ministry of Works and Transport is coordinating to ensure that the road remains passable, and, as I said, there are three major landslips in that area that are at different stages of implementing rehabilitation works. So the Ministry will continue to ensure that the roads remain passable while interim work is being done at the critical areas. Thank you.

Lifeguards at Maracas Beach (Resumption of Duties)
**Madam Speaker:** Member for Caroni Central.

**Mr. David Lee (Pointe-a-Pierre):** Thank you, Madam Speaker. On behalf of the Member for Caroni Central to the Minister of National Security: Will the Minister inform the House when beachgoers at Maracas Beach can expect lifeguards to resume their duties?

**Madam Speaker:** Minister of National Security.

**The Minister of National Security (Hon. Fitzgerald Hinds):** Madam Speaker, I am happy to inform this honourable House and my friend, the Member for Pointe-a-Pierre, that it is not so much a futuristic issue as it is one of the past. In the circumstances, I report to this House that the lifeguards have resumed their duties at Maracas Bay with effect from Monday, the 4th of July, 2022.

**Hon. Members:** [Desk thumping]

**Madam Speaker:** Member for Naparima.

**Mr. Charles:** Minister of National Security, when will you do the honourable thing and resign forthwith?

**Hon. Members:** [Desk thumping]

**Madam Speaker:** Member for Pointe-a-Pierre.

**Mr. Lee:** Thank you, Madam Speaker. Follow-up question to Minister of National Security. Minister, what was the reason why those lifeguards walked out on the first place in Maracas Beach?

**Madam Speaker:** Minister.

**Hon. F. Hinds:** Thank you very much, Madam Speaker. Quite frankly, I am unable to say, but, Madam Speaker, it is not uncommon. In December of 2020, they did the same thing and I met with the lifeguards in January of this year just before the Easter holiday because we have come to realize—and the fact that they returned to work Monday demonstrates they choose weekends, especially long and
holiday weekends like Easter, so that what they do will have more adverse impact on the population who wants to use these beaches, and to create public outrage and outcry and to get the echo chambers from my friends on the other side in the media to perpetrate their thing. So, Madam Speaker, we continue to interface with the lifeguards, provide them with resources, and we expect them to come out there and protect the public as they are professionally trained to do.

Hon. Members: [Desk thumping]

Madam Speaker: Member for Couva South.

Mr. Indarsingh: Thank you, Madam Speaker. Madam Speaker, could the Minister, whilst he continues to berate the lifeguards, give us the reasons for the lifeguards withholding their labour not only at Maracas, but at Las Cuevas, Vessigny, and Manzanilla?

Hon. Members: [Desk thumping]

Madam Speaker: I believe that question was asked and answered, and I am not going to allow you to broaden it to other areas. Member for Pointe-a-Pierre.

Mr. Lee: Thank you, Madam Speaker. Follow-up question to the Minister of National Security. Minister, you mentioned in your response to me that in January you met with the lifeguards, you had promised them certain things, could state to this House if you fulfilled those promises that you promised them in January?

Hon. Members: [Desk thumping]

Hon. F. Hinds: I would like the Member to remind me what I promised them since he is talking about promises?

ANSWERS TO QUESTIONS

Madam Speaker: Okay. So I think I just heard a particular type of expression. I will ask all Members to remember where they are and that certain things are unparliamentary, not allowed, and therefore if Members could kind of contain their
emotions. Leader of the House.

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker. Madam Speaker, there are 10 questions for oral reply. We will be answering eight of them today. You may recall, Madam Speaker, question No. 189 has been deferred for two weeks from June 13th, and we are asking for a two-week deferral for question 219. So we will be answering eight out of 10. There is one answer for written response, No. 204, and that will be circulated. Thank you very much.

WRITTEN ANSWER TO QUESTION

Child Abuse Inter-Agency Task Force
(Details of)

204. Ms. Michelle Benjamin (Moruga/Tableland) asked the hon. Minister in the Office of the Prime Minister:

With respect to the Child Abuse Inter-Agency Task Force, will the Minister state:

(a) the source of funding for the Task Force;
(b) the remit of the Task Force; and
(c) how the Task Force will address the issues of mismanagement, lack of transparency and accountability?

Vide end of sitting for written answer.

ORAL ANSWERS TO QUESTIONS

The following questions stood on the Order Paper:

HSF Deposits

189. Will the hon. Minister of Finance indicate whether the Government made any deposits into the HSF for the period January to March 2022 and the value of any such deposit? [Mr. R. Charles]
Parcels of Land – Housing and Urban Development  
(Details of)

219. Will the hon. Minister of Housing and Urban Development advise whether three parcels of land belonging to the Housing Development Corporation (HDC) located at Southern Main Road, Couva and one at Ibis Avenue, Couva have been formally and lawfully leased or sold to any member of the current Cabinet? [Mr. R. Indarsingh]

Questions, by leave, deferred.

Reports made at Child Protection Unit  
(Details of)

206. Mr. David Lee (Pointe-a-Pierre) on behalf of Ms. Michelle Benjamin (Moruga/Tableland) asked the hon. Minister of National Security:

With regard to reports made at the Child Protection Unit of the Trinidad and Tobago Police Service (CPU) will the Minister indicate:

(a) how many matters are currently lodged at the CPU; and
(b) how many persons were prosecuted as a result of any matter reported to the CPU?

Madam Speaker: Minister of National Security.

The Minister of National Security (Hon. Fitzgerald Hinds): Thank you very much again, Madam Speaker. According to information received from the Commissioner of Police, investigations are being conducted by the Child Protection Unit of the Trinidad and Tobago Police Service into 2,565 matters. However, it should be noted that investigations by the Child Protection Unit into a further 4,125 matters are currently delayed as a result of uncooperative victims or persons not keeping their scheduled appointments with the officers detailed to so investigate, and these appointments include for medical examinations, for forensic

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interviews, for the purpose of recording of statements, among other such elements of their police investigatory work.

In respect of question (b), Madam Speaker, the Child Protection Unit, since it was established in 2015, 1,258 persons have been arrested for the relevant offences and charged. Thank you very much, Madam Speaker.

Hon. Members: [Desk thumping]

Children’s Community Residences, Foster Care and Nurseries Act, Chap. 46:04
(Proclamation of Sections 3(1), 3(2) and 17)

207. Mr. David Lee (Pointe-a-Pierre) on behalf of Ms. Michelle Bejamin (Moruga/Tableland) asked the hon. Minister in the Office of the Prime Minister:

Will the Minister inform this House why sections 3(1), 3(2) and 17 of the Children’s Community Residences, Foster Care and Nurseries Act Chapter 46:04 have not yet been proclaimed?

Madam Speaker: Minister in the Office of the Prime Minister.

Hon. Members: [Desk thumping]

Minister in the Office of the Prime Minister (Hon. Ayanna Webster-Roy):

Thank you, Madam Speaker. The package of children’s legislation which included the Children’s Authority Act, the Children’s Community Residences, Foster Care and Nurseries Act, the Children Act and the Adoption of Children Act was proclaimed in May 2015 to enable the operationalisation of a new child protection system in Trinidad and Tobago to be managed by the Children’s Authority. The Children’s Community Residences, Foster Care and Nurseries Act (hereinafter, the Act) set out regulatory framework for community residences which is essentially a licensing and monitoring regime. Section 3(1), as amended, prohibits a person
from operating a children’s home without a residence licence, while section 3(2), as amended, provides that no child shall be cared for in a children’s home unless a residence licence has been issued in respect of that home. Section 17 establishes an offence for operating a children’s home without a residence licence or for a breach of the conditions of the licence as sets out the penalties for the offence.

In order to be issued a residence license by the Children’s Authority, children’s homes must meet the standards prescribed in the regulations. These standards were first prescribed in the Children’s Community Residences, Act 2014, which has been replaced by the much more comprehensive Children’s Community Residences (Children’s Homes) Regulations, 2018. The standards prescribed in the Regulations address a range of issues related to, inter alia, the premises, the welfare of the children in the homes, safety and security, the keeping of records and a complaint system. Each standard is measured against the benchmarks which must be satisfied before a licence can be issued.

At the time of the proclamation of the package of children’s legislation in May 2015, the residential childcare sector was unregulated. As such, many of the homes needed time and assistance in order to become fully compliant with the licensing requirements. To facilitate this and to avoid the displacement of a significant number of children, the sections have not been proclaimed. Nevertheless, the Children’s Authority has worked assiduously to enable many homes to achieve licensing status, and to date, 18 homes have been licensed. However, it is important to note that since it commenced operations, the Children’s Authority has been carrying out its monitoring function and has been monitoring both licensed and unlicensed homes to ensure the well-being of the children resident in these homes. Section 17 creates an offence for operating a community residence without a licence and is therefore linked to subsections (1) and (2) of
section 3. Hence, it will be proclaimed together with these two subsections. A proposed time frame for proclamation has been determined as March 2023. Thank you, Madam Speaker.

**Hon. Members:** [Desk thumping]

**Fifth Company Baptist School**

(Outfitting of)

208. Mr. David Lee *(Pointe-a-Pierre)* on behalf of Ms. Michelle Bejamin *(Moruga/Tableland)* asked the hon. Minister of Education:

Will the Minister advise when the Fifth Company Baptist School will be outfitted with enough furniture to accommodate its 520 students?

**Madam Speaker:** The Minister of Education.

The Minister of Education *(Hon. Dr. Nyan Gadsby-Dolly)*: Thank you, Madam Speaker. Madam Speaker, up to June 2022, the Ministry delivered seven dual seater desks, 56 triple seater desks, 57 senior students desks, 50 senior students chairs, 50 junior students desks, 36 junior students chairs and 35 infants triangular tables to the Fifth Company Baptist School. An assessment of the further furniture needs at the school is ongoing and any further furniture required will be provided.

**Primary School Assistant Teachers**

(Pending Upgrade)

214. Ms. Khadijah Ameen *(St. Augustine)* asked the hon. Minister of Education:

Will the Minister indicate when Primary School Assistant Teachers, whose upgrades have been pending since 2004, will be upgraded to Grade 4?

**Madam Speaker:** Minister of Education.

The Minister of Education *(Hon. Dr. Nyan Gadsby-Dolly)*: Thank you Madam Speaker. Madam Speaker, the upgrade of Assistant Teachers Primary to Grade 4 takes place after they are assessed by the Curriculum Planning and Development
Division of the Ministry of Education; interviewed by the Teaching Service Commission; and placed in a suitable vacancy. Without more specific information from the Member regarding the teachers in question, no specific time frame can be given in response to the question.

**Madam Speaker:** Member for St. Augustine.

**Ms. Ameen:** Madam Speaker, can the Minister indicate what has prevented the upgrades; the last set of upgrades that happened at 2004, what prevented the upgrades from taking place from that time until present?

**Madam Speaker:** Minister of Education.

**Hon. Dr. N. Gadsby-Dolly:** Thank you, Madam Speaker. That is a very general question, which is why I am asking for more specific information to be able to address it on a case-by-case basis.

**Madam Speaker:** Member for St. Augustine.

**Ms. Ameen:** Madam Speaker, please guide me. A Joint Selection Committee of this House examined the situation with the Ministry of Education and this matter did arise and documents were submitted there by TTUTA—

**Madam Speaker:** Okay. So ask a question.

**Ms. Ameen:** So I want to ask the Minister, if she is in receipt of that document from the representative union, TTUTA, to be aware of the situation with lack of upgrades since 2004?

**Madam Speaker:** Member, I would not allow that question based on what has been asked and what has been answered thus far. Member for St. Augustine.

**Ms. Ameen:** Do I have another supplemental on this one?

**Madam Speaker:** Yes, one more.

**Ms. Ameen:** Yes. Is the Minister prepared to receive a submission from the representative union with regard to this matter?
Hon. Members: [Desk thumping]

Madam Speaker: Again Member, that does not arise out of what was asked and what has been answered.

Primary School Assistant Teachers
(Outstanding Moneys Owed)

215. Ms. Khadijah Ameen (St. Augustine) asked the hon. Minister of Education:

Will the Minister state when upgraded Primary School Assistant Teachers will receive outstanding monies owed to them?

Madam Speaker: Minister of Education

The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly): Thank you, Madam Speaker. Madam Speaker, once Assistant Teachers Primary are upgraded, they should be paid at their new salary within two months once all documentation has been received. If for some reason this does not happen, then resolution is sought on a case-by-case basis. Therefore, it is impossible to give a time frame in response to this question without the details of the specific cases being referenced by the Member.

Madam Speaker: Member for St. Augustine.

Ms. Ameen: Madam, through you, to the Minister. Having regard to your response that it is usually treated on a case-by-case basis, in the current circumstances when none of the upgraded persons have received their outstanding moneys are you willing to treat with all of them together to solve the present situation where they have been upgraded but they have not yet been paid their outstanding moneys for more than a year?

Madam Speaker: Minister of Education.

Hon. Dr. N. Gadsby-Dolly: Thank you, Madam Speaker. Madam Speaker, the Member is speaking generally again, and if there is the information that comes to
me I can certainly treat with it. At this time, there is no information of that sort before me.

Madam Speaker: Member for St. Augustine.

Ms. Ameen: Thank you. Madam Speaker, is the Minister willing to receive a list—well, I am asking if what is required is a list of the names of the assistant teachers to be provided to the Minister’s Office for this matter to be dealt with? It is that what you are requesting?

Madam Speaker: Minister of Education.

Hon. Dr. N. Gadsby-Dolly: Thank you, Madam Speaker. I receive thousands of pieces of correspondence, so therefore I am very open to receiving any information that will assist our teachers.

Hon. Members: [Desk thumping]

Madam Speaker: Member for St. Augustine.

Ms. Ameen: So is the Minister willing to receive from the representative union, TTUTA, the list of names of persons who have moneys outstanding that have not been paid by the Government even though they have been upgraded?

Madam Speaker: Member, I think the question you asked just now subsumes this supplemental question. Member for St. Augustine.

Primary School Assistant Teachers
(New Wages/Salaries)

216. Ms. Khadijah Ameen (St. Augustine) asked the hon. Minister of Education:
Will the Minister state when upgraded Primary School Assistant Teachers will receive their new wages/salaries in accordance with their current position?

Madam Speaker: Minister of Education.

The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly): Thank you, Madam
Speaker. Madam Speaker, an Assistant Teacher Primary is eligible to receive salary at a new rate once he or she has been assessed by the Curriculum Planning and Development Division of the Ministry of Education; interviewed by the Teaching Service Commission; and placed into a suitable vacancy. Once this process is completed and all required documentation has been received by the Ministry, payment of the new salary normally occurs within two months. Without more specific information regarding the teachers in question, it is not possible to provide further information.

**Hon. Members:** [Desk thumping]

**Madam Speaker:** Member for St. Augustine.

**Ms. Ameen:** Thank you, Madam Speaker. The Ministry has indicated to these upgraded persons that funds are not available. Would the Minister give the undertaking to look into this matter to ensure that the funds are provided so that those who have been approved, upgraded and documentation already provided are just waiting for payments, can receive their long, long outstanding payments?

**Madam Speaker:** Minister of Education.

**Hon. Dr. N. Gadsby-Dolly:** Thank you, Madam Speaker. Madam Speaker, once we have the information certainly it will be looked into.

**Principals and Teachers**

**(COVID-19 cases)**

217. **Mr. Rudranath Indarsingh (Couva South)** asked the hon. Minister of Education:

Given the ongoing COVID-19 pandemic and the resumption of face to face classes in our nation’s schools, will the Minister inform this House how many principals and teachers have contracted the virus from April 19 - May 31, 2022?
Madam Speaker: Minister of Education.

The Minister of Education (Hon. Dr. Nyan Gadsby-Dolly): Thank you, Madam Speaker. Madam Speaker, for the period April 19, 2022 to May 31, 2022, 149 members of staff at schools tested positive for COVID-19. This includes principals, teaching and non-teaching staff.

Madam Speaker: Member for Couva South.

Mr. Indarsingh: In the context of teaching staff, Madam Minister, and the fact that CAPE and CSEC examinations were to take place, could you advise this House how many substitute teachers were facilitated by the Ministry of Education to facilitate the completion of the respective classes for students preparing for these exams?

Madam Speaker: Minister.

Hon. Dr. N. Gadsby-Dolly: Thank you, Madam Speaker. Madam Speaker, the question asked about COVID-19 and statistics there. So therefore, the question of how many substitute teachers is a completely different question, and if that is posed, I certainly can find the information for that and provide that. But that was not implied in this question at all.

Madam Speaker: Member for St. Augustine.

Ms. Ameen: A follow-up question. Can the Minister state how effective the system to provide replacement teachers when teachers test positive for COVID-19 and miss school, particularly for the preparation of exam classes?

Madam Speaker: Again, I will rule this question out of order.

Youth Agricultural Homestead Programme (Unsuccessful Applicants)

218. Mr. Rudranath Indarsingh (Couva South) asked the hon. Minister of Youth Development and National Service:
In light of the recent launch of the Youth Agricultural Homestead Programme, will the Minister inform this House, whether the 1,400 unsuccessful applicants were informed of the reasons they were not selected?

**The Minister of Health (Hon. Terrence Deyalsingh):** Thank you very much, Madam Speaker. On behalf of the Minister of Youth Development and National Service: In 2021, the Ministry of Youth Development and National Service developed the Youth Agricultural Homestead Programme (YAHP), which is a strategic social intervention geared at providing viable career options for youth between the ages of 18 and 35 years of age in agriculture. Under the YAHP, youths who are nationals of Trinidad and Tobago will be trained, and upon successful completion will be allocated a homestead on suitably prepared land with a starter home. The objectives of the programme are:

- To increase youth participation and the productivity and competitiveness of the agricultural sector;
- To create a cadre of new young smallholder commercial farmers through access to land, finance, and value chain opportunities;
- To ensure that youth, including females, gain access to land for agricultural purposes; and
- To increase the sector’s contribution to exports and the reduction of the food import bill.

10.30 a.m.

The YAHP comprises three components. One, agricultural apprenticeship training: a one-year comprehensive training in agriculture and agro-processing technologies as well as small business management. Two, infrastructure development, development of land, starter homes, sheds and utilities. And three,
business advisory and support services, business support and mentorship.

Specifically, in response to the question, the closure of applications for the agricultural training component of the YAHP on March 24, 2022, a total of 1,387 applications were received, 95 applications were duplicates and 213 applications did not meet the requirements for evaluation based on age, possession of state land and/or submission of a certificate of character or receipt. All applicants were advised via the instructions in the online and downloadable application form that only the successful applicants will be contacted.

Additionally, on March 01, 2022, a YAHP hotline was established by the Ministry of Youth Development and National Service, communications unit, to address the queries of hundreds to applicants, including their application status. Accordingly, 178 applications were evaluated and based on scores received, a total of 306 applicants were shortlisted. The shortlisted applicants were contacted to confirm their ability to participate in the YAHP, and the first 200 applicants by score and availability comprised the first cohort of the training component of the YAHP. I thank you, Madam Speaker.

**Hon. Members:** [Desk thumping]

**Madam Speaker:** Member for Couva South.

**Mr. Indarsingh:** Thank you very much. Minister, based on the substantive Minister’s advice, could you inform this—that the unsuccessful applicants could reapply in the ensuing year, could you inform this House whether the criteria will remain unchanged?

**Madam Speaker:** I am not sure if more than one question was posed there having regard to the long preamble. So, if you could just rephrase which is the question.

**Mr. Indarsingh:** Thank you, Madam Speaker. Minister, could you inform this House whether the unsuccessful applicants will still have to subject themselves to
the said criteria in relation to reapply?

Madam Speaker: Minister.

Hon. T. Deyalsingh: Thank you. Madam Speaker, as the programme evolves and develops, I am sure the Ministry will review. But at this time, I cannot give that undertaking. Thank you very much.

Madam Speaker: Member for Couva South.

Mr. Indarsingh: Minister, are you in a position to inform this House whether successful applicants who failed to fulfil the requirements of this homestead programme, the tuition fee of $8,000 will be covered by the Government?

Madam Speaker: I will not allow that as a supplement question, it is out of order. Member for Naparima, did I see your hand?

Mr. Charles: Not in relation to—[Inaudible]

Madam Speaker: Sure.

Mr. Charles: Madam Speaker, I thought you were asking me in respect of a supplemental but I wanted to rise on Standing Order 29(13) which deals with deferral of questions and I note that Question No. 189 was deferred for two weeks on June 13th and it was not answered today. So, I am asking that you write the—could you kindly write the Minister of Finance seeking reasons for the delay in answering?

Hon. Members: [Desk thumping]

Madam Speaker: So, in accordance with Standing Order 29(13), the requisite letter will be written and I think that is the end of question period and to say that Question No. 219 has been deferred for two weeks.

JOINT SELECT COMMITTEE

Fisheries Management (No.2) Bill, 2020
(Extension of Time)

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The Minister of Health (Hon. Terrence Deyalsingh): Thank you, again, Madam Speaker. Madam Speaker, having regard to the Second Interim Report of the Joint Select Committee appointed to consider and report on the Fisheries Management (No. 2) Bill, 2020, I beg to move that the Committee be allowed an extension of two months in order to complete its work and submit a final report by September 09, 2022.

Question put and agreed to.

Madam Speaker: The Attorney General.

Hon. Members: [Desk thumping]

[Opposition Members exit the Chamber]

Hon. Members: [Crosstalk]

Hon. Members: [Desk thumping]

Madam Speaker: Members, may we have some order, please. All those who—

Mr. Indarsingh: [Inaudible]

Madam Speaker: Member for Couva South.

Mr. Indarsingh: [Inaudible]

Madam Speaker: Member for Couva South, I am on my legs. All who wish to leave can do so but please avoid any disturbance from the business of the House.

Mr. Young: “All yuh need to grow up.”

Hon. Members: [Crosstalk]

Madam Speaker: All right. So, Member for Port of Spain North/St Ann’s West, while you are not leaving, I will also ask that there be no disturbance, please.

Mr. Padarath: “Shut yuh stink mouth.”

Madam Speaker: Member for Tobago West.

Ms. Cudjoe: Madam Speaker, Member Padarath just shouted, “Shut yuh stink mouth.” He must apologize.
Madam Speaker: Okay. So, thanks for drawing that to my attention. When he returns, we will deal with that matter. Attorney General.

Mr. Deyalsingh: Madam Speaker, if you would, it must be put on the record that the continuous disruption of this House by Members opposite when the Attorney General, honourable as he is, is about to speak, should be deplored. If they want to leave—

Hon. Members: [Desk thumping]

Mr. Deyalsingh: they can leave in silence. They can leave in silence. But the continuous disruption should be put on the record as reprehensible.

Hon. Members: [Desk thumping]

Madam Speaker: [Inaudible]—Attorney General.

MISCELLANEOUS PROVISIONS (CRIMINAL PROCEEDINGS) BILL, 2021

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC): Madam Speaker, I beg to move:

That a Bill to amend the Interpretation Act, Chap. 3:01, the Supreme Court of Judicature Act, Chap. 4:01, the Offences Against the Person Act, Chap. 11:08, the Criminal Procedure Act, Chap. 12:02 and for other related matters, be now read a second time.

Madam Speaker, we are here today assembled in this august House to pass the Miscellaneous Provisions (Criminal Proceedings) Bill, 2021. The Bill in question amends four substantive pieces of legislation. One, the Interpretation Act, Chap. 3:01; two, the Supreme Court of Judicature Act, Chap. 4:01; three, the Criminal Procedure Act, Chap. 12:02; and four, the Offences Against the Person Act, Chap. 11:08. The Bill, Madam Speaker, seeks to amend the Interpretation Act,
the Supreme Court of Judicature Act and the Criminal Procedure Act in relation to the relaxation of the rule against double jeopardy. The Bill seeks to amend the Offences Against the Person Act in relation to the abolition of the year and a day rule. I will elaborate on those rules momentarily but first let me briefly indicate how those amendments arose.

Madam Speaker, in 2021, the Law Reform Commission in the Office of the Attorney General and Ministry of Legal Affairs prepared two policy papers entitled: one, a review of the double jeopardy rule and two, a review of the year and a day rule. The Commission did extensive research on the jurisprudence behind these two rules. The Office of the Attorney General and Ministry of Legal Affairs thereafter conducted stakeholder consultations regarding these policies. The following stakeholders were consulted: the Judiciary, the Office of the Director of Public Prosecutions, the Trinidad and Tobago Police Service, the Public Defenders Department and the Law Association of Trinidad and Tobago. I should point out that both the Judiciary and the Trinidad and Tobago Police Service were in full support of these amendments.

I will now address the rule against of double jeopardy, Madam Speaker. That rule has been a part of the common law since its introduction to English law in the 12th Century. The rule is based on the principle that a person should not be punished for the same offence on more than one occasion and is represented by the autrefois doctrine and the DPP-Connelly principle.

Madam Speaker, the rule of autrefois acquit and autrefois convict provides that a person should not be tried a second time for an offence of which he has been acquitted or convicted by a court of competent jurisdiction. The Connelly principle arose out of the case of Connelly v DPP, reported at 1964, Appeal Case 1254. In that case, the House of Lords stated that the principle of autrefois is grounded on
the maxim that a man shall not be brought into danger of his life for one and the same offence more than once. And the House of Lords held that a person could not be tried for the same or substantially the same offence unless the prosecution was able to prove the existence of special circumstances warranting a second prosecution as confirmed by the *BD v The Queen*, 1998, Queen’s Bench 3-56, which stated that for the doctrine to apply, it must be for the same offence in both fact and law and no man should be punished twice for an offence arising out of the same or substantially the same set of facts.

The rule against double jeopardy persists today mainly because it continues to provide a degree of finality and conclusiveness to defendants, victims, witnesses and persons involved in criminal proceedings. Over time, however, Madam Speaker, strict application of the rule has led to situations where guilty persons have been able to escape the arm of justice. The rule is grounded not in the common law so much as it is a rule of—not so much in the Constitution so much as it is a rule of common law. It is not an enshrined right as a fundamental right in sections 4 and 5 of the Constitution but have been recognized at common law and at statute for centuries.

The rule will not therefore automatically gain constitutional protection simply because it existed prior to the enactment of the Constitution and we have had recent case law that has spoken to that both from the Court of Appeal of Trinidad and Tobago and the Judicial Committee of the Privy Council in other factual circumstances. The rule therefore does not form part of the entrenched fundamental human rights set out in sections 4 and 5 of the Constitution, namely the right to a fair trial, due process or protection of the law and therefore, an abolition or variation of the rule will not infringe upon any of those entrenched rights and thus a special majority of this House will not be required.
Madam Speaker, a strict application of the rule has led to situations where guilty persons are allowed to escape the arm of justice. Advances in forensic science and DNA testing have a fundamental impact on the rule as it is now possible to produce new and compelling evidence pointing toward guilt long after an offence was committed. It must be noted, Madam Speaker, that other common law jurisdictions, including notably the United Kingdom, Australia, New South Wales, Queensland, South Australia, and Victoria, and New Zealand have relaxed the rule to allow a retrial of an acquitted person in two exceptional circumstances, that is to say where there is new and compelling evidence or where there was a tainted acquittal.

In those circumstances, Madam Speaker, we look at the Interpretation Act, the rule against double jeopardy being well established in English common law. The rule is not enshrined but it is codified under section 62 of the Interpretation Act which provides that:

“(1)(a) Where an act constitutes an offence under two or more laws the offender is liable to be prosecuted and punished under either or any of those laws but a conviction or an acquittal upon a prosecution is a bar to prosecution for the same offence or for an offence which is substantially the same offence under any other of those laws.”

Clause 3 of the Bill in the circumstances, Madam Speaker, seeks to amend the Interpretation Act by inserting a section 62(1)(aa), that is to say double “a”, which would provide that acquittals for offences specified in the proposed Schedule 1 in the Supreme Court of Judicature Act would not be:

“…a bar to prosecution for the same offence where—

(i) there is new and compelling evidence; or

(ii) …a tainted acquittal,
and it is in the interest of justice that there be a retrial.”’

I emphasize the fact that therefore there must be:

‘“(i)...new and compelling evidence; or
(ii)...a tainted acquittal

and it...”—must be—“in the interest of justice that there be a retrial.”’

The reason for this amendment is to create, therefore, two distinct and separate exceptions to the double jeopardy rule. In instances where the accused was acquitted of a serious crime of which there is new and compelling evidence or the acquittal was tainted. The tainted acquittal procedure is different from a new evidence exception to the double jeopardy rule because the first proceedings were, in truth, a nullity. New and compelling evidence is to remove the hardship of not being able to prosecute again when new and compelling evidence arises. In modern conditions, an absolute protection would sometimes lead to an injustice.

In the case of a tainted acquittal, this is influenced by the tainted acquittal procedure introduced by the United Kingdom Criminal Procedure and Investigations Act, 1996. The procedure is available where a person has been convicted of an administration of justice offence involving a juror and witness interference or intimidation. This second category, Madam Speaker, is to allow a retrial of an acquitted person as necessary because no one should be able to profit from criminal acts intended to undermine the criminal justice system by striking at its very roots, that is to say evidence. A relaxation of the rule will therefore remove the strict application of the rule which has led to situations where guilty persons have been able to escape the arm of justice.

In the case of the Supreme Court of Judicature Act, Madam Speaker, clause 4 of the Bill provides for the necessary procedural requirements to facilitate the relaxation of the rule against double jeopardy. The Supreme Court of Judicature
Act is being amended to insert after 65, section 65Q, a new Part IIIC entitled, “Applications to Quash Acquittals by the Director of Public Prosecutions”. It should be noted that the application of this part would only apply to offences committed after the commencement of this part. It is not intended to apply retroactively. The purpose of this amendment, Madam Speaker, is to set out the procedure to permit the Director of Public Prosecutions to make an application to the Court of Appeal to quash the acquittal and order a retrial of a person acquitted of specific serious offences. In that respect, there are a number of detailed reasons for the amendments.

The Bill provides the following: an application for the retrial of an acquitted person should not be made if the acquitted person was acquitted of the offence charged but was convicted of a lesser offence arising out of the same set of circumstances that gave rise to the acquittal unless the acquittal was a tainted acquittal.

Where the Commissioner of Police sees the need to carry out an investigation of an offence listed in Schedule 1 of the Act, he must apply to the Director of Public Prosecutions before commencing the investigation.

The DPP shall then advise whether the acquittal is a bar to prosecution and if not, shall give written consent for the Commissioner of Police to commence the investigation.

The DPP shall only give his consent if he is satisfied that due to the investigation, there is likely to be new and compelling evidence to warrant the conduct of the investigation and it is in the interest of justice to proceed.

If the DPP’s consent cannot be given in urgent circumstances, the investigation may proceed with the authorization of an office not below the rank of a senior superintendent of police.
Once investigations are completed, the DPP shall apply to the Court of Appeal to quash an acquittal of a trial court proceedings. The acquitted person must be charged for the offence for which he has been acquitted or a warrant must be issued for the arrest of the acquitted person.

The Court of Appeal may, on application of the DPP, dismiss the application or allow it if the Court of Appeal is satisfied that:

(a) there is new and compelling evidence;

(b) there is a tainted acquittal as a result of the commission of an administration of justice offence and it would be in the interest of justice to proceed with the retrial of the accused.

The accused, of course, Madam Speaker, has the right to be present for the proceedings. The director may make only one application to the Court of Appeal to retry an acquitted person.

Once the order has been made for retrial, the Director of Public Prosecutions has two months to file the indictment. Where the Director of Public Prosecutions fails to file the indictment or apply for an extension of time, the accused may apply to set aside the order and restore the acquittal. Publications of the retrial are restricted but exceptions are made in certain circumstances.

We turn next to the Criminal Procedure Act, Madam Speaker. Clause 6 of the Bill provides for the Criminal Procedure Act to be amended in section 33 to provide an exception to this section by renumbering section 33 as section 33(1) and inserting a new section, section 33(2). The exception would prevent *autrefois acquit* from applying to offences listed in Schedule 1 of the Supreme Court of Judicature Act and where the DPP is advised that the acquittal is not a bar to prosecution.

Madam Speaker, I will now move on to the abolition of the year and a day
rule. From its earliest origins, dating back to the 13th Century, the rule has evolved from one of procedure to a substantive rule of law. The rule forms part of the common law definition of murder. It has been incorporated as one of the elements of the offence that the prosecution must prove in order to secure a conviction. It goes to the heart of the charge and determines whether or not a person can be charged with a homicide offence. At present, it operates as a bar to the right of the prosecution to prove that a defendant caused death if more than one year and a day has elapsed between the act or omission that caused injury and the subsequent death of the victim.

The rule is not constitutionally protected as save law, Madam Speaker, by section 6 of the Constitution, neither does it form part of the entrenched rights in sections 4 and 5, namely the right to a fair trial, protection of the law and not to be deprived of liberty, unless by due process of law. Accordingly, the abolition of this rule will not infringe upon any of those entrenched rights and therefore, the legislation that we are contemplating today will not be required to be passed by a special majority.

Additionally, Madam Speaker, it may be argued that total abolition of the rule can leave room for abuse of process, either:

a) because the prosecution has manipulated or misused the process of the court so as to deprive the defendant of a protection provided by the law or to take advantage unfair of a technicality; or
b) on the balance of the probability, the defendant has been or will be prejudice in the preparation or conduct of his or her defence by delay on the part of the prosecution which is unjustifiable.

It is being well established in the jurisprudence of Trinidad and Tobago that the court has a discretion to exercise its inherent jurisdiction to state proceedings
for an abuse of process and our jurisprudence is replete both here in Trinidad and Tobago and through the common law with case law to that effect. The most common basis upon which this discretion is exercised is delay, that is to say whether the delay is such as to deny to the accused a fair trial. The ultimate objective of this discretionary power is to ensure that there should be a fair trial according to law which involves fairness both to the defendant and the prosecution.

As stated by the Lord Diplock in the case of Queen and Sang:

“...the fairness of a trial...is not all one-sided; it requires that those who are undoubtedly guilty should be convicted as well as that those about whose guilt there is any reasonable doubt should be acquitted.”

Furthermore, the case of Bell v DPP of Jamaica, 1985, Appeal Case 1937, and the Privy Council laid down guidelines for determining whether delay would deprive an accused of a fair trial. The relevant factors were said to be:

“(1) the length of the delay; (2) the reasons given by the prosecution to justify the delay; (3) the responsibility of the accused for asserting his rights; and (4) the prejudice the accused.”

As such, it is established that there are safeguards in place to prevent any abuse of process if the rule is abused.

In the circumstances, there are many arguments supporting the abolition of this rule. Some of those arguments are the danger that the application of the rule to modern conditions could lead to absurd results. For example, in cases of deliberate HIV infection, problems may arise where an infected person may survive up to 12 years after infection before succumbing to death or in the instance where a victim of violent crime has lapsed into a coma but is maintained on artificial life support beyond the year and a day. The injustice is created in cases where perpetrators of serious offences avoid prosecution completely or may be charged for lesser
offences such as attempted murder or causing grievous bodily harm where a victim dies beyond the year and a day. Life can now be prolonged, Madam Speaker, following serious injuries for periods which could never before been contemplated has a possibility even 30 years ago.

Advances and improvements in medical science, especially in the field of forensics, highlight how it is now possible to ascertain cause of death and, in particular, to identify a specific causal link between action of the perpetrator and the death of the victim. Pathology has developed to a degree where cause of death can now often be established with certainty over a lengthy delay between the injury and death in cases even where a relatively short time ago, it would have been speculative to try to do so.

Clause 5 of the Bill therefore provides for the total abolition of the year and a day rule. The Offences Against the Person Act would be amended by inserting a new section A stating that:

“The...rule is abolished for offences involving death.”

The abolition would not, however, apply retroactively. The abolition of the rule will remove the time limit within which death must occur before a prosecution for murder or related offences can be commenced.

Madam Speaker, of course, it must be noted that clause 2 of the Bill contains a proclamation clause necessary to ensure that all stakeholders are prepared to execute these amendments. Prosecution is therefore allowed—proclamation is necessary therefore to prevent collusion of laws and to allow for an adequate period of enquiry and safeguarding.

Madam Speaker, today, we are here to give further protection to our citizens and to ensure fair process and to ensure that offenders are not protected by rules of law which have existed for centuries. With the new technological advances, new
evidence can be attained by the police to prove the commission of serious offences such as rape and murder. The rule against double jeopardy should not protect offenders. Additionally, these same technological advances can keep victims of grievous bodily harm alive for more than a year and a day. The retention of this rule seems pointless in today’s society where technology can prove guilt.

Today, I ask this Parliament to consider the proposed amendments which will ensure that the doors of justice remain open to protect the citizens of this Republic. Madam Speaker, I beg to move.

Hon. Members: [Desk thumping]

Question proposed.

11.00 a.m.

Mr. Dinesh Rambally (Chaguanas West): Good morning, Madam Speaker. Thank you for permitting me to join this debate. Madam Speaker, as I join the debate this morning, there is a matter which I know that attorneys and even Madam Speaker, you yourself will be aware of the terminology where we indicate, at the outset, if we wish to raise a point in limine. Akin to that same principle, it is really a submission in limine that I would like to raise this morning. And I think it is an important one. And in so doing, I would like to give the assurance, Madam Speaker, that the only evidence that I seek recourse to in raising this early submission in my contribution is evidence of the Bill that we have here before us this morning and statements that have been made by the hon. Attorney General.

And Madam Speaker, it is relevant to the Bill, or seeking to pass the instant Bill that is before this House this morning. You see, Madam Speaker, and I give the assurance I am not referring to any court proceedings, whether determined already, whether pending, or whether to come. Madam Speaker, I am on this Bill this morning, which seeks to amend or abrogate, what we would typically call the
rule against double jeopardy.

Now, Madam Speaker, the Bill before us touches and concerns the administration of justice. That is undeniable. As I said before, it seeks to abrogate, or maybe we can say qualify. Some may even say repeal the common law principle which, based on even the date that we heard from the Attorney General, that it dates over of some 800 years that we have had some of these common law principles, which guide the criminal process before the courts.

And if you are going to talk about touching and concerning, repealing or somehow qualifying these longstanding principles of English common law, which we have adopted as well, pursuant to our Supreme Court of Judicature Act, and we are talking about the administration of justice, and this Bill itself goes in the direction of talking about confidence in the administration of justice, it will go towards officers. We are going to get into a debate talking about the officers who will have to prosecute, gather the evidence, investigate, prosecute; possibly seek opinion of the DPP, the Office of the Director of Public Prosecutions. I think that the person, Madam Speaker, who is piloting this Bill must have authority to do so. And I want to put it on the record that the authority that I am talking about, Madam Speaker, there must be some legal authority, some moral authority, some parliamentary authority—

**Hon. Members:** [Desk thumping]

**Mr. D. Rambally:**—any kind of authority, that if you are talking about the administration of justice, that you yourself, whosoever it may be, and in this case, through you, Madam Speaker, I am making direct reference to the Office of the Attorney General and the hon. Attorney General, that you should not be part and parcel of any state of affairs, which may impact or erode the rule of law and erode the confidence, which people in this country have in the administration of justice.

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Hon. Members: [Desk thumping]

Madam Speaker: Okay, so Member for Chaguanas West, having made your point in limine, I will ask you now to deal with the Bill.

Mr. D. Rambally: Thank you Madam Speaker. I am so guided. Madam Speaker, before I move on, at the end of appointed limine one would ask what is the basic submission. And so my ending, concluding submission would be through you, Madam Speaker, to the hon. Attorney General: why are you still occupying that office?

Hon. Members: [Sustained desk thumping]

Madam Speaker: Member—

Mr. D. Rambally: Yes please.

Madam Speaker:—maybe you misunderstood the guidance. I have asked you, having made your point in limine, to continue, if you so wish, on the matter before us, the substantive matter, which is the Bill.

Mr. D. Rambally: Thank you, Madam Speaker.

Madam Speaker: All right? I have warned you once.

Mr. D. Rambally: Yes, please.

Madam Speaker: I hope you do take the guidance.

Mr. D. Rambally: Thank you.

Mr. Deyalsingh: Madam Speaker, may I put on the record the Government’s position? Standing Order 48(6).

Madam Speaker: Okay. All right. So I know we are almost—I think at the end of this week the recess will begin and I expect that, you know, we may all now be at, maybe the end of our endurance, our tolerance, our discipline, our respect. All right? I will ask all Members for today and the other sittings that we will have before the recess, to dig as deep down as they can within themselves, so that we

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could discharge the responsibility that we have to each other and to the wider Trinidad and Tobago to uphold the traditions of this House and not, within our own selves, bring the House into disrepute.

As we all know, every Member is entitled to raise a Standing Order. As we know, when Members get up to speak other Members sit, other Members listen, and if a Member also wishes to raise some question we know how to do it. So let us at least try today, and for whatever sittings we have until recess, okay, individually and for those of us who know that those sitting next to us might be at their wit’s end, we have a collective responsibility, okay, to get on with the business of this House.

Member for St. Joseph, I have already dealt with this. Overruled. Let us go ahead, Member for Chaguanas West.

**Mr. D. Rambally:** Thank you. And Madam Speaker, I certainly wish to thank the Chair for the guidance given. Madam Speaker, one matter which I wish to raise on this particular Bill, I think I am duty-bound to refer to the procedure in which we are now dealing with this instant Bill before the House this morning. Madam Speaker, the Standing Order 36(1) requires that the Government gives one day notice, in terms of the Motion which they propose to have debated before the House. Madam Speaker, we got notification on this side. I am reliably told that 6.55 p.m. yesterday—

**Hon. Members:** [Desk thumping]

**Mr. D. Rambally:** Madam Speaker, that we would be debating the instant Bill this morning. Madam Speaker, we know, and we owe the country a duty to indicate that we are always prepared. We do our preparation on this side, in terms of looking at the Order Paper, what comes out on the parliamentary website and we get into assigning certain Bills to certain persons, you have different committees, et
cetera, that will get into the nitty-gritty. But when we have to come before the Parliament, on this side, what we try to do as best as possible is that we have every Member prepare so that they can contribute to the Bill that is before the House.

**Hon. Members:** [Desk thumping]

**Mr. Deyalsingh:** Madam Speaker, I rise on Standing Order 48(6). This Bill was read and introduced on Friday, 10th December, 2021. So they had one year and seven months’ notice.

**Mr. Indarsingh:** Madam Speaker, the Acting Leader of Government Business is abusing his—

**Madam Speaker:** Member.

**Hon. Members:** [Desk thumping]

**Madam Speaker:** Member. Okay, so Member for St. Joseph, if you kindly look to your left, which I think your eyes should really be trained, all right, I overruled Standing Order 48(6). All right? Let us proceed. Member for Couva South, while I know you are acting as Whip, please avoid the temptation to be jumping up. You know the proper way. You have been here long. Okay? You know the proper way. Member for Chaguanas.

**Mr. D. Rambally:** Thank you, Madam Speaker. Madam Speaker, I just want to say, and I will not belabour the point, it is clear that the reason why we are debating this Bill this morning is because the Bail (Amdt.) Bill, which was initially indicated to be debated this morning has—

**Hon. Members:** [Desk thumping]

**Mr. D. Rambally:**—collapsed in another place.

**Hon. Members:** [Desk thumping]

**Mr. D. Rambally:** It has collapsed in another place. We were supposed to debate it here this morning and all of us were prepared to debate the Bail (Amdt.) Bill.
Hon. Members: [Desk thumping]

Mr. D. Rambally: So, Madam Speaker, we owe the country a duty to tell them that our views are that we are rushing or attempting to rush through a Bill which really has no pertinence to what is taking place in the country right now.

Hon. Members: [Desk thumping]

Mr. D. Rambally: And, Madam Speaker, I do take the guidance that we are just mere days away from a period that we all look forward to. But I do not know in light of this, and I say this rhetorically, whether we will have to be disturbed during that period because that Bail (Amdt.) Bill is now going to be expiring sometime in the early days of August. So leave that right there, Madam Speaker.

Madam Speaker, this Bail (Amdt.) Bill is a matter which it touches—

Madam Speaker: Now, we are not dealing with the Bail (Amdt.) Bill.

Mr. D. Rambally: Sorry.

Madam Speaker: All right?

Mr. D. Rambally: Madam Speaker, yes. Thank you. Madam Speaker, I spent so much time preparing that Bill it cannot leave my mind.

Madam Speaker: You know, Member for Chaguanas West, the place that you come from, we are able to recalibrate very quickly.

Mr. D. Rambally: Yes please.

Madam Speaker: We are not dealing with the Bail (Amdt.) Bill. All right? Let us go on.

Mr. D. Rambally: Thank you, Madam Speaker. Madam Speaker, at a time when the criminal elements are inflicting the scourge of the underworld upon the citizenry, the crime rate in our law-abiding communities are spiralling beyond this Government's control. The Government’s response is to review—and this is what today is about—an age-old principle of law *autrefois acquit* and to seek to
jeopardize the rights and liberties, which its law-abiding people presently enjoy. That is the effect of this Bill that is before us. And, Madam Speaker, I want to say that I have listened to the Attorney General but I do not share all of his views, in terms of the premise of law that he has piloted this morning. Madam Speaker, I am hearing some little mumbling.

**Madam Speaker:** You would not believe that it comes from your own side; it is most probably support. So, as it, I am sure you can rise above that—

**Mr. D. Rambally:** Yes please.

**Madam Speaker:**—and please proceed.

**Mr. D. Rambally:** Madam Speaker I do not think it was from my side but I move on. One initiative on the way, Madam Speaker, one initiative on the way, is to declare, apparently, the violence in our society as a public health emergency. That is the last pronouncement we heard.

**Madam Speaker:** So, Member for Chaguanas West, I am not going to allow you to widen this debate. All right? There are specific provisions before us, specific Bills. I will ask you to confine your comments to that. It is not about crime. It is not about any public health or anything like that. Let us deal with this. I uphold the objection.

**Mr. D. Rambally:** Yes please.

**Madam Speaker:** Please proceed.

**Mr. D. Rambally:** Madam Speaker, the simple point is where we are today in the country, this is the answer legislatively to what we are seeing outside and it is totally out of touch.

**Hon. Members:** *[Desk thumping]*

**Mr. D. Rambally:** Madam Speaker, it is not uncommon for political and social issues to shape and define our legal systems. However, the Parliament is being
used by the Government to respond to the cries and emotions over an uncontrolled spike in murders over the past few days. So what we are doing here is we are attempting to apply a plaster over a wound that they have no control over the flow of blood right now. And that is the premise we have to get into this Bill. How is this Bill going to help the administration of justice and the instance of crime scourge that we are dealing with right now? That is the point. It is a knee-jerk reaction.

**Hon. Members:** [*Desk thumping*]

**Mr. D. Rambally:** The public is calling out and demanding some kind of protection, and how is this Bill going to do that? And that is where I am going, Madam Speaker.

**Hon. Members:** [*Desk thumping*]

**Mr. D. Rambally:** Now, Madam Speaker, the proposed change would involve relaxing the rule against double jeopardy; a rule which essentially prohibits the State from trying an individual more than once for the same offence. No other procedural doctrine in criminal law is more fundamental, Madam Speaker, or all-pervasive than the rule against double jeopardy. That is how important this issue is, when we come down to the particular Bill.

Today, when the Government has an extremely, and I want to put it, I am not taking the debate wider than the Bill, but it has to be placed in context, where it has an extremely low detection rate, where the wheels of the justice system are turning so slow that it is as good as being described as turning backwards; where our women and young children are being brutally raped and murdered, yet we are talking in some other quarters about pepper spray not being implemented.

**Mr. Young:** Madam Speaker, 48(1). The Bill is a—what? I am no Rajaee, you know. Standing Order 48(1), this Bill is not about crime. This Bill is a very
confined Bill that has to deal with, as the Member likes to throw in, double jeopardy, *autrefois*, not what he said, imps, pimps and chimps; and therefore 48(1).

**Ms. Ameen:** “All dat tuh say 48(1)?”

**Madam Speaker:** So, you know, apparently the guidance is not being sought and I understand Members may really be very challenged. Sucking their teeth certainly is not allowed. We all know that from very elementary school. I think everybody in this House deserves the title of honourable. And since I think they all deserve that title, I expect that we all display behaviour that supports that title. Right? Regardless of what we may think individually about each other, I think everybody deserves that title.

Okay. Member for Chaguanas West, again I caution you. I uphold the objection with respect to Standing Order 48(1). I again caution you. This is not about crime. And while I have allowed you some leeway to put it in the context of this administration of justice, this is not about crime and all the crime-fighting issues that you are seeking to bring into the debate. Please be guided.

**Mr. Indarsingh:** Madam Speaker, before my colleague continues, and I have no problem with persons on the Government side rising on Standing Orders.

**Madam Speaker:** Do you have a Standing Order?

**Mr. Indarsingh:** Yes, 48(4). I would like you to pay particular attention to the utterances of the Member for Port of Spain North/St. Ann’s West—

**Hon. Members:** *[Desk thumping]*

**Mr. Indarsingh:**—as it relates to my colleagues. I have no problems when he stands on Standing Orders. But let him confine his commentary to the Standing Orders.

**Hon. Members:** *[Desk thumping]*

**Madam Speaker:** Okay. So, again we are going to proceed. I take note of the
point that Member for Couva South has said. There is another issue that awaits another Member to come in and I am asking us all to be guided by Standing Orders 50(3) and all the provisions under Standing Order 50(3). I am also reminding Members that certain language is considered unparliamentary. So it might not be considered insulting, it might not be considered offensive, but it is unparliamentary. Okay? Today is not a day for lecturing. Today is a day for all of us to comply by what we know, by what we have agreed to bind ourselves as the rules of engagement. Let us get on with the business of the people of Trinidad and Tobago in the manner which they deserve; robust yes, insulting, derogatory, unparliamentary, offensive; no. Continue, Member for Chaguanas West.

Mr. D. Rambally: Madam Speaker, thank you so very much. Madam Speaker, let me just make a simple point, so that I will not give the impression that I am going wider in the aspects of crime-fighting, et cetera. This Bill will ultimately be premised on scientific advancements, and I think I even heard that language being used by the Attorney General when he was piloting. And the scientific advancements that we have seen and we would continue to see in the First World countries that have implemented similar pieces of legislation, it is something that is absent here in Trinidad and Tobago. And I do not mean that in any disrespectful way to our country. I do not mean that to belittle what work law officers are engaging in and how seriously they make take their jobs, et cetera. I mean that in the sense of in those countries, it is clear that there is a short time span. The wheels of justice turn very quickly. What you have is you have trials that commence and terminate in a very quick manner. We do not have that here. They have access to DNA testing and DNA labs which, whilst we may have, it does operate as efficiently as theirs.

We also have here, you could have electronic monitoring, et cetera, all of
these scientific advancements. They are so far advanced in those countries that they were able to formulate. Their law commissions were able to take all of those things into consideration as they decided that they would remove themselves from some of the old common law principles. And that is what I was attempting to make that point and I move on.

Madam Speaker, this double jeopardy rule, the book of Nahum in the Old Testament, contains a similar concept and it says, Madam Speaker, the Lord will not take vengeance twice on his foes.

Hon. Members: [Desk thumping]

Mr. D. Rambally: Madam Speaker, the St. Jerome’s commentary on this passage in 391AD gave rise to the Latin maxim *nimo bis in dipsum*. Madam Speaker, I must confess I have not studied Latin. But what it means, no one ought to be punished twice for the same offence.

So the same jurisdictions that the Attorney General would have referred to: England, Australia, I believe reference would have been made to New Zealand, America as well, the United States of America is another one. The ancient *autrefois* pleas prevent proceedings against a defendant who has already been tried for the same offence. These two pleas served slightly different purposes. And when I say two I mean *autrefois acquit* and *autrefois convict* as well. Now, what it means is that you are spared. If you are successful in putting forward that plea, you are spared the hardship of a second trial.

And the reference was made to the locus classicus *Connelly v the DPP*. That is a 1964 House of Lords case which analyzed the English principles concerning double jeopardy law. And that landmark case, Madam Speaker, I would just quickly refer to the facts. The Crown had charged Connelly and three other defendants with two indictments, one for robbery and one for murder. These
indictments arose out of an office robbery in which an employee had been killed. Initially, the Crown proceeded on a murder indictment alone. The jury returned a guilty verdict and Connelly appealed to the criminal appeal. The Court quashed Connelly’s conviction and directed a verdict of acquittal.

A month later, the State tried and convicted Connelly on the second indictment for robbery and Connelly appealed his robbery conviction. The House of Lords dismissed Connelly’s appeal and held that the *autrefois* plea was a limited doctrine that did not prevent Connelly's retrial.

So the *autrefois* plea does not concern the acts, incidents or facts that gave rise to the first trial, but rather the specific offence for which the defendant was previously charged. The test for application of an *autrefois* plea is whether the evidence necessary to support the second indictment would have been sufficient to procure a legal conviction upon the first. Because murder and robbery in that Connelly case are distinct charges, the House refused to look at the fact nucleus or recognize Connelly's pleas.

And it went on, Madam Speaker, in dealing with lesser and greater included offences. And although Connelly found no relief, the House of Lords clarified and examined, as I said, the double jeopardy law. The House forbade the State from prosecuting a defendant for lesser or greater offences that could have been included within the initial indictment. So in other words, although found not guilty of the main charge, the defendant cannot later be tried for any offence of which the jury could have lawfully convicted on a lesser offence.

So, Madam Speaker, that in a nutshell is really the Connelly v DPP case. So the House of Lords prohibited retrials for any greater included offence. And as I said, it also extends to lesser offences as well.

Now, Madam Speaker, the House of Lords augmented the *autrefois* pleas by
introducing the abuse of process standard in Connelly as well. The courts may exercise its undoubted power to prevent an abuse of its process. And that is apart from the common-law principles to stop a prosecution. This standard gave modern expression to an ancient right of trial courts to prevent abuse by staying obnoxious proceedings indefinitely. So a court may stay the prosecution’s case if the court finds that the defendant cannot possibly receive a fair trial or that simply putting the defendant on trial would be unfair. Courts may apply the standard for matters directly affecting the fairness of the trial of the particular accused such as delay or unfair manipulation of court procedures. Typically, a court will only stay proceedings upon finding improper prosecutorial conduct. This doctrine helps courts safeguard the moral integrity of verdicts and of the criminal process generally. That common-law position, Madam Speaker, applies in our courts here locally.

So, Madam Speaker, we have the double jeopardy principles. We have what we term *autrefois acquit* and *autrefois convict*. We also have the *Connelly v DPP* expanding what those items would have meant and how they are applied, and we have where England, New Zealand, Canada, United States of America, just to name those that come easily to mind, where they have found, having regard to their scientific advancements, how they fight crime, that they were able to deviate somewhat from these principles. These principles are critical. They form the cornerstone of our democracy.

What happened in England, Madam Speaker, by way of reference, England’s impetus for change, there were two highly-publicized violent killings followed by unsatisfactory resolutions in the criminal justice system, and that prompted public outrage in England. So in both instances, the parents of the victims publicly called for justice and advocated the double jeopardy reform. And
it was not a knee-jerk response. They set up a law commission, and from there that is where they were able to weigh the pros and cons and to be able to balance the rights.

At all times, when you read—let me just mention the two instances. One of those unfortunate incidents in the history in England was the brutal killing of a young woman called Julie Hogg. In 1990, her body was found hidden beneath her bathtub. In addition to that, there was the trial of the accused and the person got off. And subsequently, would have confessed to the actual committal of the crimes.

And we also had the racist murder of Stephen Lawrence. That is the other infamous impetus for the current reform that still continues to pervade in England, and that was where you had the senseless, with absolutely no provocation in that particular case of Stephen Lawrence, where you had six white males who just approached Stephen Lawrence and stabbed him several times. That is another case where there was a trial. There was the acquittal. There was the subsequent acquiring of information and also some of them putting forward their own evidence. That is where it led to whether or not you could have had a retrial and subsequently get a conviction. So, in that Stephen Lawrence one, it did not, unfortunately, have a nice ending, as in the case of the Julie Hogg trial. And, therefore, in that particular case, unfortunately I do not think that family was able to get any justice.

So what, Madam Speaker, it brings me to the point, is the impetus for bringing this instant Bill before the Parliament? And that is what I do not know, Madam Speaker. I am left to surmise, as I have already done earlier, which case has been tried before the courts, as in the Julie Hogg case and the Stephen Lawrence case? I am asking here locally: which case has been tried before the courts and accused persons now stand to be acquitted, whether on the ground that
the court has no jurisdiction owing to apparent bias or otherwise on demerits? I do not know, but I am asking: What really is the impetus for bringing this particular piece of legislation here? Maybe the Attorney General can enlighten us as to the real impetus behind piloting this Bill.

Now, Madam Speaker, again I am—sorry I am hearing some grumbling coming again, Madam Speaker, but I will—considerations for any proposed changes. In England, Madam Speaker, as I said it was scientific advancements and the shifting social views regarding justice in the procedural areas of the criminal law, which fueled the recommendations for change. The Law Commission, the Home Affairs Committee, they recommended that in the interest of justice, certain circumstances warranted an acquitted individual’s second trial.

There was a desire that its final recommendation—I am talking about how they went about shifting away from these double jeopardy principles—there was a desire that the final recommendations reflect a balance between the criminal justice system's need for finality and the desire to achieve an accurate outcome.

Another critical consideration in the proposed modification was the nature of the new evidence. Newly-acquired evidence would include the future state of science with respect to advancements in photographic recognition, something that I do not know that we have here; face mapping, something that I know even though we may have piloted the Evidence (Amdt.) Bill, that we may not have here; fingerprints, ear prints. Madam Speaker, simply put, are we realistically in these categories that we can think that we are in a position like those other countries to move ahead?

The Law Commission, in an attempt to balance the interest of justice and the notion of due diligence, concluded that the processes of police investigations are institutionally strong enough to ensure that the police thoroughly complete the
investigations. I mean no disrespect to the TTPS, the Trinidad and Tobago Police Service, but it is a, I think it is a collective notion of how weak the population's confidence is, in terms of the demeanour and the sanctity and the integrity of some of the elements of the police service. I leave that there.

So a stringent standard of due diligence would preclude many cases that would otherwise be eligible for consideration under any proposed exceptions.

11.30 a.m.

So Madam Speaker, I say that just to give a little background as to why it is those countries went one way, and we still continue at this point in time we hold to the age-old principles of common law. Whether we are on par with them our humble submission on this side is that we are so far away that we need to keep our age-old common law principles. To do otherwise, where our justice system cannot accommodate as the other countries have done a quick flow of the trial, any criminal trial, sanctity in how you assimilate evidence, the prosecution. How it is you would pursue even investigation following an acquittal. Those are matters which are real and we cannot take for granted. So the double jeopardy rule is a corner stone of the common law as it represents an individual’s defense against the Government’s abuse of power.

Mention was made by the Attorney General of the right to a fair trial and certain section 4 and 5 rights, and of course on that side their view is that there is no infringement of those rights which would warrant, you know having a special majority. I know that will be dealt with on this side.

Madam Speaker, the concept of due diligence is critical because establishing such a standard may prevent a relentless police force from making repeated attempts to convict an accused. And this scenario is precisely one which the rule was designed to protect against. Absent a due diligence standard, however, if new
evidence which was available at the time of the first trial is allowed to be presented at a second trial, the seriousness of the offence becomes critical in maintaining control over the Government’s ability to prosecute or the State’s ability to prosecute.

Madam Speaker, we can imagine if it is you have certain elements of the police service taking it upon themselves whether motivated by their own emotions or whether motivated by other considerations, third party considerations they decided that they are going to gang up on an accused, then that is going to be problematical for the administration of justice. It is a serious concern because there is the ability to harass perpetrators of crimes by making repeated attempts at a conviction. I am not seeking to protect any criminals. The law already if they are acquitted at the end of that first trial, they have gone through the system that we as a democratic society subscribe to. So we are not on this side seeking to protect any perpetrators of crime, but our law as it is established over centuries of common law, it says that we have to have finality in these determinations by the court.

Madam Speaker, may I ask how much time I have again?

Madam Speaker: Your time will expire at 11:46.

Mr. D. Rambally: Thank you, 13 minutes. Madam Speaker, if I may just go quickly into you know, talking about certain aspects of the Bill. On the instant Bill it allows, and this is what we detect, it allows prosecution for what is referred to as an administration of justice offence, even where the prosecution may involve an assertion implicit or explicit that the accused was really guilty of the offence upon which he or she was acquitted.

Administration of justice offences include “obstructing justice”, “perverting the course of justice”, and we see here “perjury.” You can have retrial of an acquitted defendant for a very serious offence when the prosecution presents fresh
and compelling evidence. A retrial would be permitted where an original acquittal is in doubt or tainted because of possibly perjury or bribery. And so that is what we are seeing the crux of it. What is the practical impact however of diminishing the *autrefois acquit* or the double jeopardy principles? After a court acquits a person of a serious offence the prosecutor may apply to the Court of Appeal for an order quashing a person’s acquittal and ordering him to be retried.

In order to bring this type of appeal the prosecutor must have the written consent of the DPP—I am using the acronym, Madam Speaker. The DPP may give his or her consent only if he or she is satisfied that “...new and compelling evidence...” exist. And that is in the public interest for the application to proceed. Compelling evidence is:

“(c)... reliable;  
(d)... Substantial;”

And in the context of the outstanding issues—

“...highly probative of the case against the acquitted person;”

And that is my—in a nutshell what we see on the Bill.

These new provisions at clause 4 effectively gives the prosecutor a second chance to try the same case with evidence he ignored or chose not to include the first time. That is the reality. It will be tested. We are not saying no. It will be tested by the DPP in the first instance and even if the DPP gives the consent that there has to be the retrial, it is going to be tested by the court. But that is what it allows essentially to be done in terms of the police gathering of evidence.

By creating finality, the rule against double jeopardy delineates the boundaries of the State’s power, Madam Speaker, and it helps maintain an appropriate relationship between the State and the people. In making court rulings and jury verdicts final the rule also promotes the legitimacy of the criminal justice
system. So what we have now with the finality of the determinations of the court actually promotes, and it aids the legitimacy of the criminal justice system.

Each abridgment of double jeopardy as this Bill will ultimately seek to do, each abridgment of the double jeopardy privilege, it chips away, Madam Speaker, at the ideals that is underpinning the political community. And this has repercussion for ordinary citizens.

Madam Speaker, the double jeopardy privilege maintains a proper balance between the State and the individual. So Madam Speaker, the double jeopardy protection equilibrates power between an individual citizen and the State by preventing successive prosecutions for the same offence, the privilege encourages a responsible State, a responsible Government, a responsible TTPS, one that respects the rights of individuals, and recognizes the State’s commitment to democratic values.

Madam Speaker, there are nice quotes from Paul Roberts who is an eminent British scholar who has written on these types of matters and in the interest of time I will not be able to get into it.

Madam Speaker, the other point I wish to make, the rule against double jeopardy promotes the criminal justice system’s legitimacy, and I think I mentioned that in passing already without finality courts cannot command the confidence of the public. Even in Australia one of those jurisdictions that took the decision to have some qualifications to the double jeopardy principles. The Australian High Court found that the legitimacy requires that people accept the decisions of courts as incontrovertibly correct and declared that a judgment by the High Court on a matter of record has a higher nature. And this is what we want to promote. That is what is being promoted now.

So Madam Speaker, double jeopardy protects the individual preventing the
retrials for the same acts. The courts defend also individuals citizens against wrongful conviction, the distress of a second trial, and the risk of harassment by the State and the press. All those countries Madam Speaker, that have been mentioned, when they established their own law commission and home affairs committee and what have you to be able to investigate the scenario, and the circumstances that would permit them to abrogate the double jeopardy principles. They found that the question of publicity by the press of these criminal matters that a defendant would be accused of and then have a retrial on similar circumstances or facts, that that is something that has to be grappled with. I do see reference to it in our Bill, but it does not equate with what England and the US has.

Several scholars have argued, Madam Speaker, Michael Friedland that the second trial for the same offence certain factors frustrate truth and fairness. And that if the second trial is held long after the first would create an unfavourable and unfair situation for the defense. It may be questionable whether the accused can receive a fair trial given that the supporting evidence for the defense may have been lost due to the passage of time, or people that they would call upon to support their case not being available.

So Madam Speaker, these are real issues in our system. And even in the civil side, Madam Speaker, which I will not get into that you have to these de novo, you know, approaches having to be taken. And these are all impacting on the administration of justice. In this case we are dealing with the criminal side.

So Madam Speaker, Blackstone, one of the most established authors on criminal justice argued, and I quote:

“It is better that ten guilty persons escape than one innocent suffer”

Those are the words of Blackstone and I think he was saying it against the background of course of how important this double jeopardy principle is.
Madam Speaker, in determining retrial occurs with the presentation of new evidence or that which was not deduced in the original proceedings. Madam Speaker, what I would say is any skilled prosecutor should be able to convince a court. And that is ultimately what the attempt will be, that the new evidence test would be sought to be satisfied, but it does not necessarily mean that it will produce the evidence that would lead to a correct verdict.

So Madam Speaker, the risk of harassment by the State is something that I have spoken to. English and Australian courts have recognized that a great imbalance of power exist between the prosecution and the accused. The double jeopardy, this is England and Australia, the double jeopardy privilege helps to rectify this imbalance. So we have to be careful if we are going to abrogate some of these rights that we do it similar or better circumstances which they have in their jurisdiction, that will assist us to make sure that rights are balanced.

Madam Speaker, there are other issues that come to mind, safeguards in the Bill meant to protect defendants from harassment. When we look at the fact that for the police to begin an official reinvestigation into a previously acquitted suspect for the same crime, an officer must apply to the DPP for written consent. And that is 65U, that is to be found at clause 4 of the Bill.

Under section 65U(2) an officer may not make this application unless satisfied that new evidence has been obtained or he or she has reasonable grounds for believing that such new evidence is likely to be obtained as a result of the investigation. So, the officer may not arrest, question or search the suspect or his premises without the DPP’s written consent. The director will grant consent when satisfied that the officer who requested the investigation has met the following two rather vague conditions in my view, that:

“there is, or there is likely as a result of the investigation…” to be
sufficient “new…evidence to warrant the conduct of the investigation; and,
it is in the”—public—“…interest for the investigation to proceed”.
So that is to be found at clause 4 of the Bill and particularly 65U (2).

But Madam Speaker, immediately thereafter there is a frightening exception for urgent investigative steps and this is something that we definitely have a lot of concerns with, 65U(5), urgent investigative steps which can be taken without the DPP has the potential to negate the safeguards which would arise through the DPP’s office. So at 65U(5)(a) and 65U(5)(b) the officer may take these urgent investigative steps if it is not reasonably practicable to obtain the consent of the DPP before taking the action.

It remains to be seen how and if this Bill is passed it will remain to be seen how the courts will interpret the requirements of this section. But prosecutors, Madam Speaker, we can anticipate that prosecutors and police may easily use this section to justify an improper investigation after the fact. So that is really a red tape or a caution that we have to highlight.

You have the diluting of the new and compelling evidence definition. I say this against the backdrop of 65U(6)(a) and (b). A police officer must only provide, and I quote:

“…reasonable grounds…”—for believing—“…that…”—such—
“…new…evidence is likely to be obtained…”

Does this mean, Madam Speaker, that any police officer who believes in an acquitted person’s guilt could convincingly argue that further investigation would uncover new evidence? So in some, Madam Speaker, urgent investigative steps appears to be a wide loophole allowing for police harassment through continued investigation.
Madam Speaker, this Parliament would fail to heed the House of Lords warning in Connelly if it believes that the Executive will police itself. That was a square dicta coming out of Connelly v DPP—yes, Connelly v DPP. Expecting the DPP to prevent improper police investigations is unrealistic. That is not his role. And as one English author argues the DPP’s ex post facto consent would not be much of a safeguard as it would apply retroactively to an investigation already underway. So Madam Speaker, in our jurisdictions we know that the DPP is not equipped to make investigative decisions and should not be relied upon to do so. So we have to look at these things very carefully.

Madam Speaker, by allowing retrials the State gives the prosecution a powerful incentive to withhold evidence at an initial trial so it may bring it out later time around and allows for continuing police investigation and harassment of the defendants. Madam Speaker, I think I have one minute.

So Madam Speaker, I spoke about the media. And why I said the media, they perform a very valid duty and they have a responsibility to the society. But it is in these other countries what they have found is that when you have the unearthing of evidence which comes post-acquittal it leads to incessant press coverage in the hopes of inducing the State to re-prosecute. And that is something you know we could label it pretrial publicity or whatever. But that is a fact that we have to take into account.

Madam Speaker, I would conclude by saying that autrefois acquit and the rule against double jeopardy are centuries old, common law protections which should not eliminated because they maintain the proper balance between the rights of the State and the individual citizen. If we are to convince ourselves, Madam Speaker, that we ought to head in the direction of abrogating those rights, we would humbly suggest that let this Bill go before a joint select committee for
Mr. Rambally (cont’d)

further consideration.

Hon. Members: [Desk thumping]

Madam Speaker: Member for Port of Spain North/St. Ann’s West.

Hon. Members: [Desk thumping]

The Minister of Energy and Energy Industries and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam Speaker. Madam Speaker, I must start by confessing that I am somewhat disappointed, only a little bit, because I have come to expect very little in the submission that was just made by the previous speaker.

Hon. Members: [Desk thumping]

Hon. S. Young: The submissions. The lack of honesty, the lack of actually focusing on the Bill that is before the House is amazing. It was only with 16 minutes left to go in his contribution the Member admitted; well let me now attempt to look at some areas of the Bill. And even in doing so, I can only come to the conclusion with a level of dishonesty he left out the protection for people that is replete in this Bill.

Hon. Members: [Desk thumping]

[MR. DEPUTY SPEAKER, in the Chair]

Hon. S. Young: So Mr. Deputy Speaker, I would like to start by assuring the population without fear of contradiction that the Bill that is before us today is in fact proper law. The Bill that is before us today answers every single one of the boogeymen that the former Member tried to raise in this House today. This Bill as I went through it is replete with protection. And I think it necessary, Mr. Deputy Speaker, to put it all in context. And I would like to start by this principle that I challenge any one of them with an ounce of honesty in their submissions to point the population to show how the following statement is not

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true with respect to this Bill. The Bill does not, it does not, Mr. Deputy Speaker, erode the time long honoured protection of double jeopardy. I want to, frontally and squarely, put that on the record. There is absolutely nothing in this Bill that is before us here today that in any way whatsoever waters down that time long honoured principle of double jeopardy. And in going through the Bill, as I will in a short while, I will show to the population and to all who care to read the Bill, and all who care to know the truth, that this is in fact replete with protection.

And that protection of course as I was just pointing out to the hon. Attorney General must be read in conjunction with the Constitution. Because you see, not once in the submissions was there reference to section 90 of the Constitution which is supreme. So to remind the population what section 90 is lest any honest civic minded, right thinking citizen of Trinidad and Tobago has an ounce of concern based on what they have just heard, section 90 of the Constitution puts squarely the power of criminal prosecutions and procedures in the hands of an independent officer called the Director of Public Prosecutions.

Hon. Members: [Desk thumping]

Hon. S. Young: And nothing in this Bill, nothing, nothing, nothing whosoever interferes with that the constitutional independent office. In fact, if they took the time to read the Bill they will see expressed in this Bill is even further building in of the necessity to have the DPP’s approval to take certain steps.

And the abject dishonesty that I just heard in reference to a specific clause where the Member stopped short of continuing to read the next two following clauses—

Mr. Ratiram: Mr. Deputy Speaker.

Hon. S. Young:—stands out.

Mr. Ratiram: I rise—I rise on Standing Order 48(6) please.
Mr. Deputy Speaker: Thank you. Overruled. Proceed.

Hon. S. Young: And I expect that. And they will all come, and I challenge them to say where there is anything in this Bill that affects the protection that is built in in the Constitution in that independent office of a Director of Public Prosecutions. And the drafts people of this Bill have gone even further to ensure that every step of the way, including the last steps, I think it was only about four parts of the Bill that were referred to by the previous speaker. And in one of those parts where he said the police can go ahead, and the police can go for retrial. He stopped short of then saying in those circumstances what happens next is that they must inform the DPP, and then once the DPP is informed they cannot go any further conveniently leaving that out to mislead the population as usual.

So Mr. Deputy Speaker, I would like to start off very briefly by telling the population about the concept of separation of powers as it has become very important as I have been listening to the submission over the past few days and in particular the submissions that have been coming out of the House recently. That the population be given the understanding of what this concept of separation of powers is with respect to this Bill and other areas.

Separation of powers built in in our Constitution is protection. There are three arms. The first is the Legislative arm, which is the Parliament. That is us and what our role is. The second is the Executive which is the Government and the third is the Judiciary. All we can do in here as elected Members of Parliament is pass law. That is a fact. We are here to account to the people of Trinidad and Tobago but a big part of our role as legislators is to pass law. So do not come and try and say as there just was an attempt to do that what we are seeking to do is give the Government power to re-prosecute and to just continue prosecuting ad infinitum. A government has no role to play in prosecution whosoever. None.
Government any way. There are previous ones who sat on that side that are now before the courts for interfering with witnesses. They want to attack the hon. Attorney General in the most infertile, infantile and immature ways leaving the Chamber every time he speaks. But I want to remind the population that their former Attorney General is before the court for interfering with witnesses.

**Hon. Members:** [Desk thumping]

**Hon. S. Young:** So when I heard the previous speaker talk about authority, authority for the hon. Attorney General, Sen. Reginald Armour to stand up here, stand up in the other place and to pass law or to pilot Bills be reminded that you on the other side have no moral authority whatsoever.

**Mr. Ratiram:** Mr. Deputy Speaker

**Hon. Members:** [Desk thumping]

**Mr. Hosein:** 48(1), 48(4).

**Mr. Ratiram:** Mr. Deputy Speaker, I stand on

**Mr. Hinds:** [Inaudible]

**Mr. Ratiram:**—Laventille West—

**Mr. Deputy Speaker:** What Standing Order?

**Mr. Ratiram:** Thank you Mr. Deputy Speaker.

**Hon. Members:** [Crosstalk]

**Hon. Members:** What Standing Order?

**Mr. Deputy Speaker:** Members, please.

**Mr. Ratiram:** I rise on Standing Order 48(1). What the hon. Member is speaking of have nothing to do with what is before us at this point.

**Hon. Members:** [Desk thumping]

**Hon. S. Young:** I am responding directly to what was said!

**Hon. Members:** [Desk thumping and crosstalk]

Hon. S. Young: I am responding directly to what was raised and the challenge to the hon. Attorney General.

Hon. Members: [Crosstalk]

Mr. Deputy Speaker: Address the Chair please.

Hon. S. Young: Thank you Mr. Deputy Speaker.

Mr. Deputy Speaker: Address the Chair.

Hon. S. Young: And the Member who is jumping up for Oropouche East he too is before the court for corrupt activity.

Hon. Members: [Desk thumping and crosstalk]

Mr. Indarsingh: Mr. Deputy Speaker—

Dr. Moonilal: 48(1), if you cannot stop him somebody will.

Hon. Members: [Desk thumping]

Hon. S. Young: What does that mean?

Mr. Indarsingh: Mr. Deputy Speaker, 48(1), 48(4). And I will not sit here and allow the Minister of Energy and Energy Industries to abuse anybody on this side.

Hon. Members: [Desk thumping]

Mr. Indarsingh: He has to be reigned in. He has to be reigned in.

Mr. Deputy Speaker: Okay. All right. So hon. Members again, certain information has been brought in to the debate and—listen I am on my legs. I am on my legs. Right. Certain information has been brought into to debate and as the Speaker in the Chair I will determine the leeway. I will extend accordingly on both sides. Rest assured on both sides. Okay. On both sides. Right. Member, you stand by the information you putting before this Chamber?

Hon. S. Young: Absolutely.
Mr. Deputy Speaker: Kindly proceed.

Hon. S. Young: Thank you. Because you see I am responding to the attacks on the Attorney General. I am responding to the previous speaker who asked with moral authority can he pilot legislation? So I am entitled as an elected Member to put on the record exactly what is lacking.

And now to get back to the separation of powers, because I think it is important, Mr. Deputy Speaker, in a recent Privy Council case—so this is not months ago, years ago. In a recent Privy Council case of Jay Chandler v the State 2002, United Kingdom Privy Council 19, the following was stated in conclusion by the Privy Council, and it is important to put it on the record. Because the Privy Council recognized in that decision, Mr. Deputy Speaker, the sacred role of Parliament, and recognized and accepted, even though they have a different interpretation of law, even though they have different values, that it is up to Parliament to pass legislation. And that is something that we as 41 elected Members of Parliament must guard jealousy.

So the Privy Council after they stated their disagreement with the mandatory death penalty once again went on to say at paragraph 97:

“The allocation of powers in the 1976 Constitution places on Parliament the burden of deciding when the existing laws which are protected by the savings clause should be amended or repealed to reflect changes in thinking about fundamental rights and freedoms and to accommodate changes in social and political values.”

And I say that for every one of us, every one of the 41 Members of this elected House to take note of, to understand by that third arm the highest level of the Judiciary, that they acknowledge the sacredness of our duties and responsibilities as parliamentarians and as legislators. And that is something I as the Member for
Port of Spain North/St. Ann’s West will not, will not easily allow to be diluted.

They go onto say:

“The policy questions posed by the savings clause are not limited to the mandatory death penalty but apply also to other preserved laws which are inconsistent with the higher standards enshrined in section 4 of the 1976 Constitution.”

Paragraph 98:

“Laws, which predate the creation of the 1976 Constitution… but for the savings clause, would be exposed to constitutional challenge for breach of the fundamental rights and protections in section 4 or…5 of the Constitution, will continue to exist only so long as Parliament chooses to retain them.”

I put all of this in context and on the Hansard for those who are willing to listen, to understand how important our duty is. It is our duty as the legislature to decide what goes on the law books of Trinidad and Tobago once it does not breach the Constitution. So do not come and point in other directions and ask why we are doing this? It has been recognized by the Privy Council in the last few weeks in express acknowledgement what our role and position is.

They go on to say:

“It is striking that there remains on the statute book a provision which, as the government accepts…”

The third arm—

“…is a cruel and unusual punishment because it mandates the death penalty without regard to the degree of culpability.”

And this is the important part:

“Nonetheless, such a provision is not unconstitutional. The 1976 Constitution has allocated to Parliament, as the democratic organ of
government, the task of reforming and updating the law, including such laws.”

12.00 noon
That last sentence in this decision from the Privy Council answers everything that was previously said. I will repeat it:

“The 1976 Constitution has allocated to Parliament,—that is you all and us—“as the democratic organ of government, the task of reforming and updating the law, including such laws.”

And that is exactly what we are doing here today, anyone who cares to take note and to fulfill their responsibility.

I want to also use the opportunity to tell the population in layman’s language, what *autrefois acquit* means. It means:

“a defendant’s plea, stating that he or she has already been tried for and acquitted of the same offense.”

So what this Bill is here today, and when they are using the terminology of “double jeopardy,” it means that you have gone through—you have been charged, you went through a trial and you are acquitted. So the age-old accepted principle of double jeopardy is that you should not be subject to any further retrial. You have gone through a trial, your peers or a court has decided because it is criminal proceedings, that you are not guilty and therefore, you should be allowed to go free. That is still being protected. But through the passage of time, it has been recognized that circumstances may arise, evidence may come forward new evidence that was not known at the point in time, that can now secure or that should now go before a court and there should be a retrial. And that is all this is about today. We have all seen it.

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I see time and time again recently, the most horrendous crime that was committed against one of our young citizens, Akiel Chambers, rising again recently in public discourse and comment. If DNA evidence or some other evidence were to come forward now in circumstances such as that, that was not available at the time, this is the provision in law that now allows someone who may have been charged and may have been acquitted to now face the courts again, what is wrong with that? That is the right thing to do. And that is what the Privy Council is saying, accept your responsibility in certain circumstances.

It is necessary, unfortunately, because it was not done previously by the other speaker on the other—speaker on the other side, to take the population through the Bill that is actually before the House. Instead, what we had to be subjected to is puerile immature attacks that continue on the Attorney General. And I want to tell the population here today again, without fear of contradiction, why that is happening. I want the population to reflect on section 34 which was a piece of legislation that was passed to help their friends, their financiers and their political strategist.

Hon. Members: [Crosstalk]

Mr. Hosein: Mr. Deputy Speaker, 48 (1)

Mr. Indarsingh: Mr. Deputy Speaker, I rise on 48 (1)

Dr. Moonilal: What about Cambridge Analytica?

Mr. Deputy Speaker: Again, hon. Member, I will give you a little leeway in order to tie it in with regard to this Motion that is before the House.

Hon. S. Young: I will tie it immediately in, thank you, Mr. Deputy Speaker.

Mr. Hinds: Tie it tight.

Hon. S. Young: You see, the question was asked by the previous speaker of the hon. Attorney General, and of us on this other side. Who is this legislation? Let
me—the impetus? What is the impetus for bringing this Bill before the Parliament? The question was frontally asked after asking what is the impetus. Which case has been tried in Trinidad and Tobago to bring about this Bill? So in assuring the population as to how we operate in a PNM government, there is no impetus in the form of a case of individuals or anything like that as to why this legislation is here. And it is different to what they did with section 34 by specifically bringing legislation for their friends, financiers and political strategists. And that is the connection. We did not bring this legislation because of any case. This is being done to bring us up to speed and to improve the criminal justice system.

**Hon. Members:** [Desk thumping]

**Hon. S. Young:** So we are different. We do not stand here and bring anything to help anybody in the form of legislation that is improper.

Another point that was raised Mr. Deputy Speaker, is we are attempting to rush through a Bill not sufficient notice. Again, I put on record that this Bill was laid in this House on Friday the 10th of December, 2021, and has remained on the Order Paper every single sitting since December 10, 2021. That is notice!

**Hon. Members:** [Desk thumping]

**Hon. S. Young:** But it became very apparent from the efforts of the responder to the Government, that they are not interested in the law. They are not interested in the Bill. He did not even read the Bill. So to get quickly now in my remaining time, to the Bill just to assure the population.

First of all, it defines very clearly in the definition section. What is “new and compelling evidence?” But even before that, I would like to tell the population that this is limited to specific offences. It is limited to extremely specific and ring-fenced circumstances. So the:

“administration of justice offence’ includes any of the following...
(a) an offence of perjury contrary to the Perjury Act;
(b) an offence of perverting the course of justice contrary to the Criminal Offences Act;
(c) an offence of obstructing justice contrary to the Criminal Offences Act;”

And immediately, anyone looking at those three will understand if they have any sense and sensibility or more so any experience of criminal law, that those are limited circumstances where it is possible, that years down the road, after you have been acquitted of a charge, something may come up—some new and compelling piece of evidence, and again, the Bill provides for the protection that may allow you now to be retried in specific circumstances, after the DPP in all circumstances has given approval. And the DPP, has I have taken the time to remind us is protected by the Constitution. No one else can interfere with criminal prosecutions. The DPP has the power pursuant to section 90, subsection 3(c) of the Constitution and I quote so the population understands the level of fear-mongering and dog-whistling taking place:

“The Director of Public Prosecutions...”—according to the supreme law, the Constitution section 90(3)(c), is the only person who has the power:
“to discontinue at any stage before judgment is delivered, any such criminal proceedings instituted or undertaken by himself or any other person or authority.”

So citizens, let not a second of your heart be troubled—your heart’s beating be troubled, because ultimately, that independent Office of the Director of Public Prosecutions can at any stage before conviction, discontinue proceedings even in the present circumstances. The Bill goes on to talk about what qualifies as “new and compelling evidence”.

“‘new and compelling evidence’ means evidence that—
(a) was not adduced in the proceedings in which the person was acquitted;
(b) could not have been adduced in the proceedings with the exercise of due diligence;”

That in itself is a form of protection. So in other words, you cannot just say, “well, as I heard it being suggested by the Member for Chaguanas West, well, the police could just keep bringing evidence and bringing cases”. That cannot happen, you have these hurdles to get over, you have to be able to show that you did not have that evidence that you could have adduced at the time in the first set of proceedings. That is a hard level, a hard burden to cross. It then goes on, as the Attorney General said, to say that this is not retroactive. That in itself is an answer to the impetus question. It is not retroactive, is not for what has gone. This is going forward. And it only kicks in and applies when there has been an acquittal, meaning the trial is over. So when it is passed, that is when it starts to run. But that is the level of intellectual dishonesty that we must be subjected here to, impetus, who is this for? What case? None. That is not how we operate. You then go on talking about protection. Right. New section 65U:

“...the Commissioner of Police intends to carry out an investigation into the commission of an offence listed in Schedule 1 by an acquitted person in relation to the retrial...he shall apply in writing to the...”—DPP—“before commencing any investigation.”

And these are the important points in layman’s terms, before the police even begin an investigation, to try and get that new evidence and to secure the new evidence to come back with a retrial, they have to get the permission of the DPP. And even in the circumstances, as the former speaker was referring to when he was
referring to new section 65U and saying there are circumstances where the police—the police could go and they could do this without the DPP.

True, limited circumstances. But let me tell the population if the Member had taken the time to read the Bill, or if the Member had that ounce of fulfilling the duty and telling the population what the Bill actually goes on to say. So after the police go down that road, they are required, right, so it is at section 65—the new 65U, subsection 5, that says:

“Notwithstanding subsection (1), an investigation may proceed without prior consent of the Director of Public Prosecutions if authorised by an officer not below the rank of Senior Superintendent…”

First protection, so it cannot be a constable, it cannot be a sergeant, it has to be at least the rank of a Senior Superintendent. And only in the following circumstances, so it is not open, it is not “well, let me just continue going after Stuart Young”. It has to be where urgent action is required to prevent the investigation from being substantially and irrevocably prejudiced, that immediately limits it to the circumstances where a Senior Superintendent can go ahead with an investigation even though the person has been acquitted. And I want to give the population an example. It could be for example, where a witness has come forward and is only available in immediate circumstances. So for example, a witness or an accomplice to a crime where everybody has been acquitted, lying on his or her deathbed, now seeing God’s face decides,

“Ah going and tell the truth and ah going and say who were participants in the crime”. And the police cannot get to the DPP and go through that process before. That is one of the types of circumstances. So it is limited, second round of protection. And then they must also be able to fulfill that:
“it is not reasonably practicable in the circumstances to obtain the prior written consent of the...”—DPP—“before commencing the investigation.”

But you see, what was left out is the next few sections that flow, which say at subsection (8) of that 65U—and this was intentionally not referred to, to create fear-mongering, and to say the police could always come after you. Not true, because it goes on at subsection (8) to say:

“The Director of Public Prosecutions shall be informed, as soon as is reasonably practicable, of—

(a) any authorisation given under subsection (6); and
(b) all actions...”

So you go to the person on the deathbed, you begin to take the statement, you are taking the statement, you cannot go on. You now have to go to the DPP and say, this is what I have done. And you know what it goes on further to say, again, intentionally left out by those on the other side, in telling the population what really exists in the Bill? It goes on to say:

“...and the investigation shall not proceed further without the written consent of the Director of Public Prosecutions.”

So what we have sat here and witnessed today has to be one of the lowest points of contribution I have personally witnessed by those on the other side, in trying to mislead a population and create fear amongst the population in a most dishonest manner. So even in the circumstances where it was suggested that the police can go ahead with an investigation, I have just shown the population the built-in protection to ensure that that is not abused. And I remind the population it is all subject, of course, to section 90 of the Constitution, where the only person who can involve him or herself is the Director of Public Prosecutions to discontinue proceedings. That is always available, an independent office.
The Bill goes on, replete, as I said at the start, Madam Speaker, with protection for the population, because it is a recognition by the draughtsman that double jeopardy is a sacred concept. But because of the advancement of technology, the advancement of what could happen, DNA, all the things that were referred to, but also someone who was involved in the committing of a crime on his or her deathbed, coming forward to give new evidence that was not available at the time of the acquittal, justice demands that we as legislators in accordance with the sacred duty that we have as elected Members, improve the law. And that is what we are doing.

Hon. Members: [Desk thumping]

Hon. S. Young: “65V. (1) The Director of Public Prosecutions may apply to the Court of Appeal to quash an acquittal of a trial court in proceedings…”

So, this is now setting out how it may happen in certain circumstances where there is going to be an appeal taking place. And it sets out the test, it talks about the new schedule 1 and the types of—this is not open ended, you know, I do not want the population for a moment to think this is, for example, a small case of traffic offences, or burglary or the small, minor criminal offences for people to now, based on the fear-mongering that I have heard and I am certain will come from the other side, that somehow your rights are going to be trampled on when you have been acquitted of the more minor offences.

Let me tell the population through you, Madam Speaker, the types of offences where—which an acquitted person may be retried for in very, very narrow circumstances of built-in protection:

“(a) murder;
(b) treason;
Miscellaneous Provisions Bill, 2021

Hon. S. Young (cont’d)

(c) piracy or hijacking;”

Those first three are recognized in law in every Commonwealth jurisdiction as the most serious offences against individuals and the State:

“(d) any offence for which death is the penalty fixed by law;
(e) an offence of misbehavior in public office;”

And when I read that one, I began to have certain thoughts and began to say I wonder if this is why you are hearing objections?

“(f) sexual offence under any written law in which the alleged victim is a child;”

And then it goes on:

“...offence under the...”

Madam Speaker: Member, your time is now spent.

Hon. S. Young: Thank you very much, Madam Speaker.

Hon. Members: [Desk thumping]

Madam Speaker: Member for Barataria/San Juan.

Hon. Members: [Desk thumping]

Mr. Saddam Hosein (Barataria/San Juan): Thank you very much, Madam Speaker, for acknowledging me to join this debate on a Bill to amend the Interpretation Act, the Supreme Court of Judicature Act, the Offences Against the Person Act and the Criminal Procedure Act. And Madam Speaker, after that particular contribution by the Member for Port of Spain North/St. Ann’s West, I think I—it is about time we bring some understanding and some level-headed debate to this particular Parliament—

Hon. Members: [Desk thumping]

Mr. S. Hosein:—because what we have just seen, what we just witnessed was an angry man totally out of control.

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Hon. Members: [Desk thumping]

Madam Speaker: Okay, so—

Hon. Members: [Desk thumping]

Madam Speaker: Member, for Barataria/San Juan, remember that we are not discussing personalities. There is a principle against you know, personal invectives and so on. So, please restructure your contribution and let us deal with the Bill, okay?

Mr. S. Hosein: I am so guided.

Madam Speaker: This is not about personalities, and I have cautioned everybody, if we avoid the personal focus today, I am sure we will reach that level of decorum which is demanded of us.

Mr. S. Hosein: Thank you very much, Madam Speaker. And what we have before this particular Parliament that we are deliberating on, is a badly drafted piece of legislation.

Hon. Members: [Desk thumping]

Mr. S. Hosein: An unconstitutional Bill that we will not associate ourselves with and a Bill that will not work for the interest of the people of Trinidad and Tobago.

Hon. Members: [Desk thumping]

Mr. S. Hosein: Madam Speaker, we have seen many times legislation brought to this particular Parliament, and it cannot be proclaimed because it was poorly drafted and rushed through this Parliament in order to gain political points, rather than protect the citizens of Trinidad and Tobago—

Hon. Members: [Desk thumping]

Mr. S. Hosein:—at the same time maintaining the integrity of our criminal justice system. And I listened to the Attorney General and he indicated that this particular Bill was birthed from a double jeopardy policy paper and a year and day rule
policy paper. The Member for Port of Spain North/St. Ann’s West indicated that this Bill was laid since December 10, 2021. Why did you not also lay those policy papers in this Parliament so that we will see exactly what formed the basis of this particular piece of legislation.

**Hon. Members:** [*Desk thumping*]

**Mr. S. Hosein:** It is totally insulting to the Members of this Parliament that you cannot provide the policy that underpins this particular piece of legislation.

**Hon. Members:** [*Desk thumping*]

**Mr. S. Hosein:** The Member, the Attorney General then went on to talk about stakeholders and stakeholder consultation. And that there was stakeholder consultation with the judiciary, with the DPP, with the TTPS, with the public defenders and with the Law Association of Trinidad and Tobago. And then the Attorney General went on to say that only the judiciary and the TTPS supported the legislation. So, what were the views of the Office of the DPP who this particular Bill directly impacts?

**Hon. Members:** [*Desk thumping*]

**Mr. S. Hosein:** What is the view of the public defenders, again, who this Bill directly impacts? What is the view of the Law Association of the Republic of Trinidad and Tobago on this particular matter?

**Hon. Members:** [*Desk thumping*]

**Mr. S. Hosein:** So, you bring an incomplete piece of legislation, without giving us in this Parliament, the disclosure and the benefit of those comments to see exactly what the stakeholders had to say about this particular piece of legislation. And this is the modus operandi of this Government. They will operate in a manner of secrecy. Why are you hiding these most important documents, because these documents will in fact formulate particular clauses and the manner in which this
particular Bill is drafted to reach the policy considerations. So we are asking, why did you not provide those stakeholder comments to us? Is it that those offices did not support the legislation? Is it that they expressed concern with the legislation? We need to know.

Then the Attorney General would have addressed several parts of the Bill in terms of the Constitution, and I thought the Attorney General would have really addressed in detail the constitutionality of this particular Bill. But in fact, all we got was him reading the particular clauses of the Bill. And when you look, Madam Speaker, at examining this Bill through the Constitution, you will find, as I opened my contribution, that the Bill in itself is inconsistent with various provisions of the Constitution and certain doctrines that our constitutional democracy is governed by. And I will start off, where the Attorney General said that this is a common law principle and so, it does not form part of any constitutional rights.

Well, Madam Speaker, in our Constitution, the Bill of rights would have codified common law principles, such as the protection of the law. And I will spend some time on this particular provision that deals with the protection of the law, because section 4(b) of our Constitution says that:

“the right of the individual to equality before the law and the protection of the law;”

Now, what this Bill seeks to do is vex a person twice. The Bill allows the police to initiate an investigation, takes that investigation to the Office of the DPP, makes an application to the Court of Appeal in order to basically reopen a matter that was closed, an acquittal. So, a person has been tried for an offence before a jury or a judge alone, and he has been acquitted. And now, this Parliament wants to give the power to reopen that particular matter and therefore vex a man twice.
The rule against double jeopardy is a rule that has existed for centuries, it is a rule that a man shall not be vexed twice. And in this particular case, Madam Speaker, I looked at various articles in which the constitutionality of the double jeopardy rule was examined. So, when the Government says that this particular Bill is constitutional, well, did you seek a legal opinion to determine whether or not the Bill is in fact constitutional? Because when you look at the provisions, Madam Speaker, and I am going to quote from an article by Gerard Coffey, and it is called "The Constitutional Status of the Double Jeopardy Principle". And at this peer reviewed article I quote, it says:

“The common law principle against double jeopardy is a fundamental right of the accused in accordance with the rule of law.”

In accordance with the rule of law—so any law that this Parliament passes, that infringes the rule of law is in fact unconstitutional. And it is our submission on this side, that this particular Bill is in fact inconsistent with that doctrine of the rule of law. And this particular article studied various cases coming out of Ireland. And it goes on to say that:

“It examines the most relevant provisions of the Irish Constitution and judicial pronouncements by superior courts pertaining to the constitutional status of the fundamental principle of criminal justice. The right to personal liberty…”—which is also found in our Constitution.
The right of equality, found in our Constitution. The right to trial by jury, and fairness in the criminal justice procedure are also pertinent to the constitutional status of the double jeopardy principle.

And then the article goes on again, Madam Speaker, to indicate that there are cases which suggest that it is a constitutional right. In the case of The State (Tynan) v Keane, it:
“…indicates that the common law principle against double jeopardy…” — will, in fact, find itself within the constitutional protection. Because it says that:

“…the principle that an accused is entitled to the presumption of innocence, that accused cannot be tried for an offence unknown to the law or charged a second time with the same offence, the principal that an accused must know the case he has to meet and that evidence illegally obtained will generally speaking be inadmissible at his trial, are all principles which are so basic to the concept of a fair trial that they obtain constitutional protection…”

So, there are cases that suggest that there is a constitutional protection that must be had in circumstances like this. So, then the question now is why did this Government propose this particular Bill to the Parliament, knowing that it requires a special majority, yet you bring it with a simple majority. And we have seen that this is a modus operandi again of this Government—

**Hon. Members:** [Desk thumping]

**Mr. S. Hosein:**—where they try their best to erode the constitutional rights and privileges that are enshrined in our 1976 Constitution, by the razor thin majority that they have in this Parliament. But without breaching the rules of the Standing Order, I believe they were stumped yesterday and they had to bail out of the bail debate today.

**Hon. Members:** [Desk thumping]

**Mr. S. Hosein:** And, Madam Speaker, when you deal with criminal law, there must be some level of legal certainty, there must be legal certainty. And if laws are drafted in such a way to be vague, and does not meet the constitutional muster of legal certainty, they can in fact, be struck down.

In the case of *Merkur Island Shipping Corporation v Laughton*, it says:
Mr. Hosein (cont’d)

The—“Absence of clarity is destructive of the rule of law; it is unfair to those who wish to preserve the rule of law; it encourages those who wish to undermine it.”

And in our Constitution in the preamble, it says:

“Whereas the people of Trinidad and Tobago—

(d) recognise that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law;”

12.30 p.m.

So, we are governed by this principle called the rule of law and we are saying that this particular Bill, in order to now reopen a trial where a person has gone through a competent court of jurisdiction and has been lawfully acquitted is now going to be troubled a second time. Madam Speaker, do you know how long it will take in this country for a second trial to commence? The average time for the first trial is about 10 to 15 years. A man now going to be charged a second time has to wait another 10 to 15 years to get a trial in this country?

Hon. Members: [Desk thumping]

Mr. S. Hosein: Our Judiciary does not have the capacity to do the first trial, do you think it will be able to have the capacity to do a second trial?

Hon. Members: [Desk thumping]

Mr. S. Hosein: This Government, by way of the bad laws that have been drafted and the starving of resources, has collapsed the criminal justice system in Trinidad and Tobago.

Hon. Members: [Desk thumping]

Mr. S. Hosein: They have collapsed it and I have the statistics to prove it. Because they will come and they will sing and they will dance and say, “We built X amount
of courts and we hired so much judges and that we increased the retirement age and the waterfront is going to have more courts and we have public defenders.” Madam Speaker, none of that is working, because you know why? They simply do not know how to govern.

**Hon. Members:** [*Desk thumping*]

**Mr. S. Hosein:** Those things must operate in a tandem. Where are the specialized courts to deal with guns? Where are the specialized courts—

**Madam Speaker:** Okay. So, Member for Barataria/San Juan, again, I want to caution you on what this Bill is about. We are not really dealing with the wider aspect of the Judiciary. I understood the point with respect to the effect that this could have on the criminal justice system, but I am not going to allow you to widen this into specialized courts and gun courts and all that kind of thing.

**Mr. S. Hosein:** Madam Speaker, the other point with respect to this particular Bill is this, is that a trial or the application that the DPP is about to make now for the court to make a decision on whether or not to quash the acquittal—simple language is that a person has been acquitted, the DPP makes the application to have that particular acquittal quash. It can be done on the two grounds: one, that there was new and compelling evidence or two, that there is a tainted acquittal. And I think I want to explain what a tainted acquittal is, according to the Bill, because the Attorney General just glossed over that particular area, and I think we need to read what a tainted acquittal is. It means an acquittal where the acquitted person or another person has been convicted of an administration of justice offence in connection with the trial resulting in the acquittal.

Now, one will ask: Well, what is an administration of justice offence? Well, according to the Bill, it defines it at 65S, and this is very important.

“‘administration of justice offence’

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includes any of the following offences:

(a) an offence of perjury contrary to the Perjury Act;
(b) an offence of perverting the course of justice contrary to the Criminal Offences Act;
(c) an offence of obstructing justice contrary to the Criminal Offences Act;”

And England has a similar provision, and most of the cases that comes out of England deals with perjury. And for the members of the public listening on, we need to understand what is perjury.

In the court, Madam Speaker, witnesses have to be under oath. In criminal trials, they have to be under oath. They can give evidence by way of viva voce evidence, which is, they sit in the witness box and they are examined. Secondly, they give evidence by way of witness statement, where they have a prepared witness statement that is filed in court or third, by way of affidavit evidence. And if a person puts an untruth in a witness statement, says an untruth in court or puts an untruth on an affidavit, that amounts to perjury. And that, according to this particular Bill, is a person committing an administration of justice offence. And I think that particular part is very important. Because, as I said before—and the Member for Port of Spain North/St. Ann’s West referenced it—is that witnesses will come later on to say, well, they lied on their testimony—sorry. They told an untruth on their testimony at the first trial and therefore, “We need to reopen the case because I now want to tell the truth.” And that is what the effect of this particular provision has on the new structure that this Government proposes on the criminal justice system. So, that is the administration of justice offence. And I hope that Attorney General will spend some more time in explaining that particular provision as it relates to offences of perjury and misbehaviour and perverting the cause of justice in his wind up.
Hon. Members: [Desk thumping]

Mr. S. Hosein: And the other ground in which you can set aside the acquittal—“oh”, sorry, or quash the acquittal is whether or not there has been new and compelling evidence. Madam Speaker, new evidence—and there is a distinction. There is new evidence and there is fresh evidence, and those are concepts that are already known to our criminal justice system. And, in this Bill, they now coined it as “new and compelling evidence” only in relation to this part of the Supreme Court of Judicature Act. And the new and compelling evidence also includes matters in relation to DNA samples that may have been taken at a later time, fingerprints and those other things. Madam Speaker, the Member for Chaguanas West did mention it. Do we have the capability in this country to really have our Forensic Science Centre operating in a manner which it could afford a man a second trial?

Mr. Deyalsingh: Madam Speaker, he said it himself. Standing Order 55(1)(b).

Madam Speaker: Okay. Thank you for bringing it to my attention, Member for St. Joseph. I will allow the Member for Barataria/San Juan to continue.

Hon. Members: [Desk thumping]

Mr. S. Hosein: Thank you very much. And the evidence must be relevant to the particular matter that is going to now be retried in terms of meeting the muster of what is new and compelling evidence because it is, in fact—there are five prongs in which you must satisfy which is new and compelling evidence.

And the other point I want to now address you on, Madam Speaker, is the definition of an investigation and this is where we also see that there is a trampling on the constitutional provisions. It defines an investigation, at page 6 of the Bill, to include:

“(a) the questioning, search or arrest of the acquitted person;
Mr. Hosein (cont’d)

(b) the issue of a warrant for the arrest of…”—that person—
“(c) the search of property or premises…”—of that person—
“(d) the seizure of property owned by…”—that person—
“(e) the taking of fingerprints or non-intimate samples from”—that person or the—
“‘non-intimate samples…””—of that persons—“under the…”—DNA—
“‘Act.”

And then it says that the DPP will be the one to give consent, in the circumstances, to the police in order to carry out an investigation into the commission of an offence. And then, if the DPP is unavailable, the senior superintendent can, in fact, give that particular consent.

Now, the Bill is so poorly drafted that one will read it in a manner where it can be suggested that based on this new section that is being included in the Supreme Court of Judicature Act, by this particular Bill, is that you do not need a warrant to search, arrest or seize property and therefore, that is where the poor drafting comes in. Because this Bill came out of the UK model and in the UK, it is almost an identical Bill to this at Part 10 of their Criminal Justice Act of 2003. And in their Criminal Justice Act of 2003, there are safeguards.

So, basically, what the Government did is copy and paste the English Bill—take out pieces, copy pieces and adjust some of the language. But, in essence, it is taken directly from the UK model. And in the UK model, there are particular safeguards that were, in fact, left out in this Bill before us and I will take you, Madam Speaker, to several of the areas in which safeguards were left out. And at section 87 of the English Act, it says for the arrest:

“Where section 85 applies to the investigation of the commission of an offence by any person and no certification has been given…”

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(a) a justice of the peace may issue a warrant to”—arrest—“that
person for that offence only if satisfied by written information
that new evidence has been obtained which would be relevant
to an application…”—just like ours, to quash the conviction.
“(b) that person may not be arrested for that offence except under a
warrant so issued.”

Now, where is that particular protection and provision in this Bill before this
Parliament? Again, they took out the protections that were found in the English
legislation. So, when you are copying or you are plagiarizing, do it properly “nah”. I
mean, there are—

Madam Speaker: So, Member, I will ask you, with respect to the word
“plagiarizing”, if you would withdraw that word. It could remain as copying. I
think “plagiarizing” has certain other consequences. I will ask you to withdraw
that.

Mr. S. Hosein: I humbly withdraw, Madam Speaker.

Madam Speaker: Thank you.

Mr. S. Hosein: And then, it goes on to talk about custody. So, for example, what
this Bill proposes is that before the DPP makes the application to have the acquittal
quashed, they have to now go and arrest the person who was acquitted. So, the
court has not made a determination yet that your acquittal is set aside or quashed,
but the police now has to find the acquitted person, arrest him and bring him to
court and then the DPP makes the application.

In England, there are particular time frames that they hold the prosecution on
for that. Because where a person has been detained, before the application is made,
that person has to be brought to court as soon as practicably possible, but not more
than 24 hours after he is charged. Where is that protection? If the next speaker that
comes on the Government side could point me to that particular protection in this Bill, I will be very happy, because it is not there, Madam Speaker. They have taken out the safeguards and the protections for the persons under this Bill.

Hon. Members: [Desk thumping]

Mr. S. Hosein: And what about bail and custody after the hearing of the application? The UK model says that it must be done within 48 hours. Again, that has been left out.

Hon. Members: [Desk thumping]

Mr. S. Hosein: There are particular timelines and time frames in order to protect persons’ rights because you cannot arbitrarily detain and have someone in custody for an indefinite period. What you would have, Madam Speaker—and the Member for Chaguanas West, who had an excellent and brilliant contribution—

Hon. Members: [Desk thumping]

Mr. S. Hosein:—would tell you, as a practising lawyer, that when the police are doing investigations, sometimes you have to run to court over weekends to get a habeas corpus application there in order to get that person released because you are continuously infringing a person’s rights. Whereas, in this particular case, why did you not legislate time frames in order to hold the prosecution and the police accountable?

Because recently we have seen judgments coming out of the Privy Council that made Trinidad and Tobago, made us not proud of our judicial system in some instances because we have seen that case dealing with bias in the Privy Council that was recently decided, where it involved a former Chief Magistrate and a former Attorney General. And I go no further than that save and except to say that those are the realities that we face in Trinidad and Tobago.

Hon. Members: [Desk thumping]
Mr. S. Hosein: Those are the realities that we face. And, Madam Speaker, we cannot continue to operate in a bubble. We cannot continue to have laws drafted in this manner. And what is more difficult is the financial burden and the resource burden that it would place both on the State and both on the acquitted person, because now that person has to find money to hire a lawyer. Now, Legal Aid may have to hire more lawyers to deal with these second trials. The Public Defenders who are barely—they are struggling because they have so many cases that they have to deal with, now have to go and deal with a second trial after this person was properly acquitted.

Madam Speaker, the Government has to understand that you are taking laws from developed countries whose criminal justice systems are working and trying to put it here. No, it does not work like that.

Hon. Members: [Desk thumping]

Mr. S. Hosein: There must be a complete overhaul of the criminal justice system before you try to do this thing. Let us get the first trial working before we could start a second trial. Let us try to do that.

Hon. Members: [Desk thumping]

Mr. S. Hosein: And one of the most important things—and you will find challenges coming up because, again, there was another recent decision coming out of our Court of Appeal that dealt with the discretion of the DPP being subject to judicial review. And that was a very important decision, where the court will only allow the review of the DPP’s decision in very, very, exceptional circumstances. And for a DPP now to make an application like this, I am sure it would be met with judicial review applications that the DPP should not have made an application in order to quash the acquittal of the person who has been acquitted in the past. So then, again, we now flood the civil side of the court, whereas the criminal justice
system is already under strain.

So, Madam Speaker, this Bill clearly will not work in our jurisdiction, because of challenges that we currently face. Because we have seen time and time, again—we have informed the Government, we have given them the advice that we need to pass laws in accordance with what we currently have. And you must work—you must speak to each other, and we have seen it yesterday. We have seen the response that took place yesterday that the Government clearly does not have its house in order. They do not speak to each other. And if you have the various arms working—the prison, the police, the Judiciary, the DPP’s Office, the Public Defenders Department—in tandem maybe we will see some results. But when one wants to look better than the other, Madam Speaker, you will have unhealthy competition, and that is what we are seeing right now. We are seeing a divided Cabinet that is ready to leave and for a new government to come in.

Hon. Members: [Desk thumping]

Mr. S. Hosein: Madam Speaker, in the past, we have shown that we were able and capable in order to bring some semblance into the criminal justice system, and we can do it again. And I thank you very much.

Hon. Members: [Desk thumping]

Madam Speaker: Member for San Fernando West.

Hon. Members: [Desk thumping]

USE OF UNPARLIAMENTARY LANGUAGE

Madam Speaker: So, while the Member for San Fernando West makes his way to the speaking booth, there is a matter that was raised earlier, which I will take the opportunity to treat with now, because I believe both the Member for Tobago West and the Member for Princes Town are now in the Chamber.

So, earlier in today’s proceedings, the Member for Tobago West brought to
my attention certain utterances made by the Member for Princes Town. That was just before the Attorney General took to the speaking booth to move the Bill that is under consideration. I have had the opportunity to listen to the recordings and I have checked the recorders, and I have been advised that the words were uttered by the Member for Princes Town, words which I constitute as words that would be offensive, insulting, in breach of Standing Order 48(4) and also words which will be considered unparliamentary.

I take this opportunity to remind all of us, while this is a robust environment, while we will have opposite views, while we might be very passionate in putting forward our views, that we still are required to do it in a particular way. More so, we are bound by certain rules of engagement that we are all parties too, we have created, and I would ask all of us to be mindful of that.

Having found and determined that the words uttered were unparliamentary and also in breach of Standing Order 48(4), I therefore order that the Member for Princes Town withdraw those words unconditionally and that also he apologizes to this honourable House. We are all here, hon. Members, so let us act like hon. Members. Let us be—just as passionate as we are about our views, let us be passionate and jealously safeguard that requirement that the House must not be brought into disrepute or odium.

I now call upon the Member for Princes Town. I do not want to hear the words again. Just withdraw those words unconditionally and apologize to the House. Member for Princes Town.

Mr. Padarath: Thank you, Madam Speaker. Madam Speaker, I withdraw the comments unconditionally and I apologize to the House.

Madam Speaker: Thank you very much, hon. Member. Member for San Fernando West.
Hon. Members: [Desk thumping]

MISCELLANEOUS PROVISIONS (CRIMINAL PROCEEDINGS) BILL, 2021

The Minister of Rural Development and Local Government (Hon. Faris Al-Rawi): Thank you, Madam Speaker. Madam Speaker, I am very pleased to rise to support the legislation before the honourable House today and I propose in bringing my support by way of direct answer, first of all, to the submissions coming from the Opposition and by way of demonstration of the law that is now before us.

Madam Speaker, we heard some very serious allegations coming from the Members opposite, some very uncharitable ones. The Member for Barataria/San Juan said that this is poorly drafted law; criticized the drafters themselves, literally; made an allegation about if you are going to cut and paste, get it right. The hon. Member went on to ask questions as to constitutionality and he joined the hon. Member for Chaguanas West by saying that this was a knee-jerk reaction to the circumstances in society at present and made allegations that this was somehow ad hominem legislation, meaning legislation designed to protect people in wrong circumstances. It is just frowned upon. So, Madam Speaker, let me put this on the record.

The Law Association, the DPP, the Judiciary, the Public Defenders Department were all written to in terms of consultation. In fact, in 2018 or thereabouts, I began in the exercise of legislative review, a number of reviews of the law. One of them was a very careful look at the law of murder. Needless to say, Madam Speaker, now that the Chandler judgment has been delivered by the Privy Council, it is safe to say that the Government was being proactive in the last Republican Parliament, entering into this one, by making sure that we took a clear perspective of what our
laws could look like if the decision in Matthew was overturned and if, in fact, the death penalty was deemed to be unconstitutional.

In looking at that, the Government, I as its instrument, asked the Law Reform Commission to specifically look at the year and a day rule and the double jeopardy rule. And I take this opportunity now to compliment the officers of the Law Reform Commission for excellent work on behalf of the people of the Republic of Trinidad and Tobago.

**Hon. Members:** [*Desk thumping*]

**Hon. F. Al Rawi:** And, today, I stand and I disassociate the Government from any of criticism volunteered by the Member for Barataria/San Juan—he has now left the Chamber, the hon. Member. It is unbecoming of an hon. Member of this House to attack legislative drafters, particularly when they have taken the time to do the work for and on behalf of to the people of Trinidad and Tobago. So, to the Chairman of the Law Reform Commission and the hard-working members there, including the drafters at the Law Reform Commission, I sincerely apologize for the derogatory remarks offered by the Opposition as to the excellent work that you have done.

**Hon. Members:** [*Desk thumping*]

**Hon. F. Al Rawi:** That is all the much more so because the exercise of looking at double jeopardy and year in a day, in fact, started under Ramesh Lawrence Maharaj as the Attorney General in the UNC. That exercise was an exercise which was very much one which the UNC supported because recommendations were made by a UNC government, of which the Member for Siparia was a part, that there should be reform on this area of the law. So, let me say for a moment here, this is not knee-jerk reaction law. This is being proactive. This review of the year and a day and double jeopardy principles was in tandem with our review of the
Offences Against the Person Act and the death penalty because we needed to be proactive in looking at what the law could be from the Privy Council, knowing that in January of this year, the Chandler decision was going to be heard—the case was going to be heard and the decision would be rendered.

Madam Speaker, permit me to jump quickly to the structure of the law before us, going next to the point as to consultation. I will just put one of the letters on the record. It was on the 7th of September, 2021, that the Judiciary wrote to me, as Attorney General then, in relation to the revision of year and a day and rule against double jeopardy, and permit me to read this into the record:

Thank you for your letter, August 11, 2021, the contents of which are duly noted. The year and a day rule is indeed obsolete and has lost its significance in modern times, having regard to the development of forensic science and technology in criminal investigation and crime solving. The proposed removal of the time limit within which death must occur before the commencement of a prosecution for murder will remove the cloak under which perpetrators seek refuge.

With respect to your proposals regarding the rule against double jeopardy, it is suggested that that section 62 of the Interpretation Act be addressed as it codifies the rule. The relaxation of the rule, as proposed, will provide yet another opportunity to ensure that no miscarriage of justice occurs and the rights of the defendant are adequately secured by existing safeguards.

On behalf of the honourable Chief Justice, I fully endorse your proposals with respect to both rules.

And that was signed by Alice Yorke-Soo Hon, acting as Chief Justice in that tenure.

Madam Speaker, I have read that into the record because it is such a
powerful endorsement of the propriety of the law which we bring today. Because if you go to the dicta of the Privy Council, the House of Lords, our Court of Appeal, you go to the case of R v Sang and you note that justice is not a one-sided event, Madam Speaker, it is critical for us to represent today, on behalf of the people, measures which are important. Is Barataria/San Juan saying, by way of an example, that someone who is the victim of a shooting—including a police shooting perhaps, including an act of violence—should not have the benefit of having a prosecution considered and a defence advanced simply because a year and a day has passed, when life-support systems may keep you awake, may keep you alive? That murder, as an issue, deserves ventilation.

In fact, it is a position stated that this rule of year and a day, if I look to clause 5 of the Bill, this rule of year and a day is really a statutory limitation masquerading as a substantive condition of the law. And therefore, Trinidad and Tobago, in clause 5, is being invited to ask itself, in light of the world—the Commonwealth, the United Kingdom, New Zealand, several of the Australian states, Canada, the United States—in light of all of these jurisdictions having long since moved away from the year and a day principle, to say that if there is a causation link that leads to murder or to death—because death can arise in manslaughter, death can arise in infanticide, death can arise by assistance aiding and abetting in suicide, et cetera. In all of those circumstances set out in section 4 of the Offences Against the Person Act, if you are dealing with murder or death in general, if you are looking at the other elements, manslaughter, infanticide, is the Opposition saying that justice should not be considered?

They call in aid; the fact that there have been protests in Port of Spain. Just today they said so, the hon. Members in this debate. If you read the newspapers that is a cry for consideration of justice. Are we to say that people ought not to
have justice brought about simply because one year and a day has passed from the event? Well, we in the Government say, no, justice must be balanced.

1.00 p.m.

So, Madam Speaker, let us go to the Law Association. I will put on record, I recall vividly because I keep records for myself, that we wrote to the Law Association on the 11th of August and again in September. They were invited to make submissions. They did not submit. They had requested an extension to October and provided no submissions. Similarly, the DDP’s office was written to on the 11th of August; again, no submissions came in. But we did receive from the Public Defenders division a very excellent paper which went through the pros and cons of consideration of the law, and as a responsible Government in our Legislative Review Committee and in the work exercised as a whole of Government, we traversed these provisions.

So let us say now that there has been consultation. Let us say that there has been reflection on other laws, comparative international laws. Let us say for the record that the removal of the relaxation of the double jeopardy rule, because it is not a removal—it is a relaxation in very limited circumstances, and the removal, the abolition of the common law principle of the year and a day for murder or death. Those two positions come from precedent where we are dealing with other jurisdictions who had the similar laws on their books, all moved since the early 90s, the early 2000s, up to 2005 in the United Kingdom. They call moved to relax the double jeopardy rule and to abolish the year and a day rule. Madam Speaker, that, according to Barataria/San Juan, is bad law.

Madam Speaker, I can say for the record now, having actively participated in the drafting of this law, that the precedent that we used is in fact largely from the United Kingdom experience as expressed in 2005, but materially assisted by
reflections on the Australian laws in the several states in Australia, and also by the laws in Canada and the United States. And therefore, Madam Speaker, we as a commonwealth jurisdiction would do well to follow laws from the commonwealth itself, and that is exactly what we have done. So let us go to the Bill, Madam Speaker. Let us go to the Bill, let us recognize that clauses 3, 4 and 6 all treat with the double jeopardy rule.

What is the double jeopardy rule, the maxim of *autrefois acquit*; *autrefois*, another occasion where you are acquitted; *autrefois convict*, another occasion where you were convicted, simply means you had a shot in court and you are either convicted or acquitted. That it is the double jeopardy, that you ought not to face jeopardy twice and that of course came since long before the Commonwealth was known as it is right now. It is in fact out of the 12th and 13th Centuries in terms of historical antecedents in law. And, yes, there are biblical roots inside of it. Obviously law flows from the principle of natural law which has its origin, biblical text, et cetera, but, Madam Speaker, that is not a hard and fast principle.

I want to point out in terms of addressing the allegation of constitutionality being wrong. Barataria/San Juan very glibly and boldly says that we lack constitutional muster here that we must go for a special majority consideration of this law, both as it relates to the double jeopardy rule and as it relates to the abolition of the common law of a year and a day; that rule. And I will address those two in one round because the two leading cases that really treat with that are the same. So let us first of all recognize, as the hon. Attorney General himself participated in what is now the landmark case on constitutional prescription and consideration, and that is the *Dominic Suraj* case. I want to put on record that it was our Attorney General, Reginald T.A. Armour—

**Hon. Members:** [*Desk thumping*]

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Hon. F. Al-Rawi:—of proper Senior Counsel who took the arguments in the Court of Appeal and in the High Court and had his work upheld by the Privy Council in the *Dominic Suraj* case, which says that not every law that affects or touches a section 4 and 5 entrenched right is one to be addressed by a super majority or a special majority. It upheld the law of *Suratt*; again, another Privy Council decision.

It specifically rejected the minority decision in the *Barry Francis* case, albeit that the minority was populated by the hon. Chief Justice’s view on the formalistic approach of law itself. But, Madam Speaker, that case of *Dominic Suraj* clearly stands to tell us that we must look, first of all, to what the Government has. I am putting it very simply, we have a majority in this Parliament; we are using our majority for a legitimate aim. What is the legitimate aim, that people are escaping their day in court? They are escaping justice by what is really a statutory limitation if you look at the year and a day. Borne out in the 12th Century where the antecedents of English cases says that really there were two types of prosecutions in the English arena. You had a private prosecution and you had a public prosecution, and because the private prosecution used to take so long as it did, they put in the year and a day rule obviously because they wanted to have some degree of certainly. But, Madam Speaker, in today’s modern world of medicine, where do you draw the line on HIV infection in criminal recklessness or in criminal willful conduct?

How do you tell someone that you are going to deny them their day in court? How do you tell someone who is the survivor for more than a year and a day but collapses after that and dies in a wounding and shooting? How do you tell someone right here, along the East-West Corridor, whose child has been murdered but who survived one day after a year and a day that they should not have the people who did the crime at least face a court. No, Madam Speaker, we do not join the UNC in
that advocacy. We say that justice must be adapted to meet the circumstances of our society.

**Hon. Members:** [Desk thumping]

**Hon. F. Al-Rawi:** The legitimate aim is to bring justice to the fore.

Madam Speaker, in rejecting the arguments from Barataria/San Juan, I will say this, the hon.Member sought to refer to a peer reviewed piece by Cuffie, looking at the Irish law, I just simply invite the hon. Member to go to the Privy Council and to look at the local case of *Brad Boyce*, to look at the decision also, Madam Speaker, of *Hilroy Humphreys*; again, a Privy Council case. In the *Brad Boyce* case, Madam Speaker, which is imperative for us to put on record here, the Privy Council was absolutely clear that it was considering an argument that the amendment to the law which allowed the DPP a limited right of appeal, that was a substantive amendment to the law in the *Brad Boyce* case.

They argued in that case at the Privy Council that the law was not passed with a special majority and that that was a substantive amendment to the law. The Court of Appeal in Trinidad actually held that the law was unconstitutional, saying that it needed a super majority or a special majority, but the Privy Council rejected that argument and said specifically, as it relates to the constitutionality of that provision in *The State v Brad Boyce*—that is 2006, the UK Privy Council 1. They specifically said that—and I want to say on appeal to the Privy Council, the respondent further argued that:

The common law rule as it existed—“...at the time of the Constitution gave one a right to be immune from further proceedings after”—an—“acquittal by a jury.”

Let me repeat that, the respondent argued that:

The common law rule as it existed—“...at the time of the Constitution gave
one a right to be immune from further proceedings after”—an—“acquittal by a jury.”

That board noted that section 4 only entrenched fundamental human rights and freedoms and it had to be determined whether the immunity afforded by the old common law rule formed part of due process in the narrower sense as a fundamental right or freedom. The board did not believe that it did, but instead accepted the broader principle that it was a fundamental principle of fairness that a person who has been finally convicted or acquitted in proceedings should not be liable to be tried again for the same offence.

The Privy Council therefore held that the law in 2005, which arose for consideration again in circumstances of acquittal in the Brad Boyce case, was in fact constitutional as passed on a simple majority basis. So I ask Trinidad and Tobago, through you, Madam Speaker, who do we accept today, the voice of the hon. Member for San Juan/Barataria or the Privy Council? I would elect to go with the Privy Council.

**Hon. Members:** [Desk thumping]

**Hon. F. Al-Rawi:** If one where to consider, Madam Speaker, the procedural aspect as opposed to substantive aspect, we need go no further than the Privy Council again in that extremely famous and important case of Hilroy Humphreys. We dealt with it in the abolition of preliminary enquiries. In Antigua, they were looking at the abolition of preliminary enquiries. It was argued that the Privy Council, that a preliminary enquiry was a fundamental right in the due process considerations, in the fair trial considerations, and the Privy Council rejected that right because it fell upon the fact that you were still in court with due process. Now, that comes to my argument on constitutionality now in rejecting the hon. Member for Barataria/San Juan and the Member for Chaguanas West. Let me now get to why this law is safe.
This law is safe because the Bill before us sets out in detail the safeguards and due process provisions.

So let us look at sections 3, 4 and 6. Section 3, Madam Speaker, speaks to—clause 3, we adjust the Interpretation Act. Why do we amend the Interpretation Act? We are saying in section 62 of the Interpretation Act:

“Notwithstanding…”

—the previous clause:

“paragraph (a), an acquittal upon a prosecution for an offence listed in Schedule 1 of the Supreme Court of Judicature Act is not a bar to prosecution…”

Why Schedule I? Schedule I of the Supreme Court of Judicature Act is in clause 4. Madam Speaker, if you go to page—if you go to the end of clause 4, page 13 of the Bill, we are saying that the offences for which you may be retried are the following, a narrow band of cases? murder, treason, piracy hijacking, offences for which death is the penalty fixed by law, an offence of misbehaviour in public office, sexual offences where the victim is a child, Anti-Gang Act, Offences Against the Person Act where the offence is 10 years or more—that is shooting, that is grievous wounding—offences against the Prevention of Corruption Act, offence under the Dangerous Drugs Act, the Kidnapping Act, Proceeds of Crime Act, Sexual Offences Act, Anti-Terrorism Act, Trafficking in Persons Act, Firearms Act. These constitute a lifting, a purposeful listing from the Bail Act, Madam Speaker. It is in the second part to the First Schedule of the Bail Act where we lifted a narrow set of very serious indictable offences, because remember this law does not apply to summary offences.

The double jeopardy rule, we are not changing it for summary offences even though we may yet have to go back and look at very serious summary offences.
because there are many. We are saying for indictable offences, in this limited
category in Schedule I, that you ought to allow justice to be considered. Why does
the UNC get jumpy every time about considerations for preventing miscarriage of
justice for the Proceeds of Crime Act or misbehaviour in public office?

Madam Speaker: [Desk thumping]

Hon. F. Al-Rawi: You see, Madam Speaker, I think that they are determined to
block any and everything that may have relevance in those areas of law, and I say
that most respectfully because their track record demonstrates that.

So, Madam Speaker, number one, the aim, the rationality, the second limb,
the third limb of proportional test is that we effectively go no further than we ought
to in addressing the legitimate aim and we are saying, confine it to a narrow
category of Schedule I in the manner that clause 4 sets out and clause 3 refers to.

Madam Speaker, we put two further safeguards:

“(i) …new and compelling evidence; or

(ii) the acquittal was a tainted acquittal.”

Madam Speaker, the “tainted acquittal”, if you look to the definition—that is in
reference at clause 4, “administration of justice offences” where that bites—look at
subparagraph (c):

“an offence of obstructing justice contrary to the Criminal Offences Act;”

Madam Speaker, as I stand today, on July 11, 2022, I am to be cross-examined in
the first case for obstruction of justice in this country and it was brought against a
then sitting Attorney General, Mr. Anand Ramlogan. I will not go any further than
that—

Hon. Members: [Desk thumping]

Hon. F. Al-Rawi:—but I stand to tell you that not only has the law been passed
but I am going to be the first witness to be cross-examined and that is a day in

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court. That is not an ascription to guilt or innocence, and I will move quickly along.

Madam Speaker, when we get to the position of safeguards, I would like you to remind the population as we look at it, we are saying that the DPP is the first filter. We are saying that the DPP must make an application to the Court of Appeal, no less. The Court of Appeal must be satisfied as to the reasons. The Court of Appeal must be guided by the prosecution, Madam Speaker, and the prosecution itself, the DPP is bound by the full code. The full code is that there is sufficient evidence to be prosecuted and that it is in the public interest that there is prosecution. The Court of Appeal must be satisfied that there is no delay, there is no abuse of process. Are we just all of a sudden forgetting cases like Nankissoon Boodram, where delay was set out in black and white for us to be guided by? Are we just to accept what Barataria/San Juan says glibly, Madam Speaker?

Madam Speaker, we say that there must be specific time frames. We say in terms of prosecutorial safeguard even if you get to an investigation which is warrant, which is questioning, et cetera, you cannot even speak about it because there is a prohibition against tipping off. You cannot even speak about it, Madam Speaker, it is set out in the Bill. You look at the new 65ZB and you will see:

“A person shall not publish any information…”—et cetera.

You have to get the leave of the court to even say that you are having a retrial going on, Madam Speaker. The court must be satisfied. The court can gag the order. The Court of Appeal can say “No” to the application for a retrial on the ground of autrefois being set aside, Madam Speaker.

Madam Speaker, Barataria/San Juan glibly spoke about there being no provisions like the English have. Madam Speaker, please read the Bill at page 12, 65ZD:
“Where this Part does not make provision for any of the matters provided for in sections 42 to 65, those sections, as suitably modified, shall apply.’;”

Madam Speaker, that is bail. The thing that the hon.Member said did not exist, that is time frames. Madam Speaker, it is in the law in black and white in that section that the Supreme Court of Judicature Act, the new Part IIIC, must be read with the previous aspects of the Supreme Court of Judicature Act. And what do those sections say, they give us the safeguards that the English law provided, that the New Zealand law provided, et cetera. But, Madam Speaker, they are just—the hon.Members opposite—absolutely intent on denigrating anything that will serve in the best interest of the people of Trinidad and Tobago. For them—respectfully, my view of their action is that if Trinidad and Tobago fails and suffers, they somehow prosper, Madam Speaker. Madam Speaker, what time is full time?

**Madam Speaker:** You end at—

**Mr. Tancoo:** Madam Speaker, that is 48—

**Madam Speaker:**—1.19:41.

**Hon. F. Al-Rawi:** Thank you.

**Mr. Tancoo:** Sorry, Madam Speaker. Madam Speaker, 48(6), he is imputing improper motives against all Members of the Opposition.

**Madam Speaker:** So, Member for Oropouche West, I rule against your submission. Continue.

**Hon. F. Al-Rawi:** Madam Speaker, I would just like to say this in ending now, I would like to tell the hon.Members of the Opposition that the hon. Attorney General, our Attorney General, Mr. Reginald Armour—Sen. Reginald Armour of Senior Counsel, is a man of absolute integrity—

**Hon. Members:** [*Desk thumping*]

**Hon. F. Al-Rawi:**—ability and competence, and without going too much into

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matters, as I cannot having certain responsibilities, I can testify and vouch for the propriety of my Attorney General, and I am absolutely confident—

Hon. Members: [Desk thumping]

Hon. F. Al-Rawi:—that all will be made pellucidly clear in the not too distant future. I thank you, Madam Speaker.

Hon. Members: [Desk thumping]

Madam Speaker: Member for Caroni Central.

Madam Speaker: [Desk thumping]

Mr. Arnold Ram (Caroni Central): Thank you, Madam Speaker, for the opportunity this afternoon to contribute to this very important Bill entitled, the Miscellaneous Provisions (Criminal Proceedings) Bill, 2021. Madam Speaker, I would like to firstly endorse all the sentiments of the speakers on this side of the House who came before me—

Hon. Members: [Desk thumping]

Mr. A. Ram:—the Member for Chaguanas West and the Member for Barataria/San Juan. Madam Speaker, just permit me one note of rebuttal, please, in respect of the previous speaker, the Member for San Fernando West, and he indicated that the Member for Barataria/San Juan would have attacked the drafters of this legislation. Madam Speaker, I do not know where the hon. Member came and how we came to that in conclusion, but what I can tell you is that I have a document in front of me, which is dated the 14th of March, 2022, and it says:

Legislative drafting department would no longer facilitate the Attorney General’s preferred modus operandi of drafting legislation without Cabinet-approved policy—

Mr. Manning: Madam Speaker, 48(1), please.

Mr. A. Ram:—instructions—
Madam Speaker: All right. So, Member, I uphold the objection with respect to the relevance of the document. All right? So I guide you against that path and continue.

Mr. A. Ram: Madam Speaker, what I have before me, which was—I mean, and I am guided by your ruling, is a document—

Madam Speaker: Member, I ruled so that I am not asking for an explanation and I just want to make it clear because I am seeing a developing trend. When the Chair rules, the Member either accepts the ruling or runs the risk of certain other consequences. There is no requirement for an explanation or a justification.

Mr. A. Ram: Madam Speaker, I am guided by your ruling.

Madam Speaker, the Bill before us today, you know, seeks to amend four pieces of legislation, the Interpretation Act, the Supreme Court of Judicature Act, the Offences Against the Person, the Criminal Procedure Act, and so on, but this Bill before us today, Madam Speaker, would have had, in the jurisprudence of the English law, a number of years in which it would have developed. And I think it really came to fruition in or around in the case of—in or around 2005 when the Criminal Justice Act of 2003 was passed in the United Kingdom and it followed a number of issues which—a number of cases in which the state were unable to rely or to reconvict persons based on the double jeopardy rule. And I think one of the seminal cases is R v Dunlop of 2006, where someone would have indicated after they have been acquitted that they were the ones indeed who had committed the murder and so forth. And, Madam Speaker, over the years we have had the House of Lords and—well, the Privy Council ruled on the abuse of process versus the double jeopardy rule which was explained by the Member for Chaguanas West, so I will not go there, Madam Speaker.

So, Madam Speaker, when I look at this Bill, I have a number of suggestions
for the hon. Attorney General, if he is so minded to accept same, please, Madam Speaker. And, Madam Speaker, when I look at the Bill before us and I turn to clause 3, I am seeing that the Interpretation Act is amended, and 3(aa):

“Notwithstanding paragraph (a), an acquittal upon a prosecution for an offence listed in Schedule 1…”

Now, it has been said before that this Bill is largely reflective—largely reflective, Madam Speaker, and I say that guardedly, by the Criminal Justice Act of the United Kingdom, and when you look at the schedule of the Criminal Justice Act of 2003 in the United Kingdom, the schedule there is reflective of crimes which have one common factor, which is a maximum sentence of life imprisonment. This schedule here has a range of offences which does not really have one common thread or one common factor, Madam Speaker, and that is one of the first points I would like to draw to the attention of the hon. Attorney General.

When you go down further in clause 3, Madam Speaker, and you read after Roman numeral (ii), there is not a Roman numeral but it says:

“…and it is in the interest of justice…there be a retrial.’.”

I think in terms of the legislative drafting there ought to be a Roman numeral (iii) there. And in accordance with what is also at page 8 of the document when you look at clause 65V, you would see that—sorry—65W, you will see that it is Roman numeral (iii) on that occasion there. So I think there has to be a Roman numeral (iii) at page 2. And then, Madam Speaker, 65S, the “administration of justice offence”, and it lists what the administration of justice offence to include—and some Members would have gone through the Perjury Act, and so forth. I am not going to go there but I am going to talk about:

“‘tainted acquittal’ means an acquittal where—

(a) …
(b) there is a real possibility...but for the commission of the administration of justice offence, the acquitted person would not have been acquitted.”

So, Madam Speaker, is the Government saying that there are certain institutions which ought not to be trusted in the criminal justice system? I am asking that because it gives the impression—it gives the impression that, but for the commission of administration of justice offence. Outside of the Perjury Act for your witnesses an offence perverting the course of justice contrary to the Criminal Offences Act; an offence of obstructing justice contrary to the Criminal Offences Act. So is the Government saying that there are certain institutions in this country which they do not trust? And if they are saying so, they should outrightly come out and say that that is the case, Madam Speaker.

Madam Speaker, when you look also at the way the Bill is structured, there is no definition up front of what is the interest of justice. We have to go lower down in the document, in the Bill before us to get an indication of what is the interest of justice. And I think if we are dealing with definitions, we should all deal with definitions to the front of the document, whether then having some definitions to the front and some definitions to the back. So, Madam Speaker, I think that is something also for consideration to the hon. Attorney General. Madam Speaker, as I said before, this Bill is grounded or has the truth in the Criminal Justice Act of the United Kingdom and if we are to follow that, Madam Speaker, the new and compelling evidence is defined separately in the UK Act. In our Act we have new and compelling evidence taken together, Madam Speaker, and I think sometimes we have to try to understand why it is that way.

1.30 p.m.
Now it has to do with, in my humble opinion, as to what is compelling
evidence. So you are asking a police officer, a police officer, to determine compelling evidence. A police officer, I am saying, may not be in the best position to determine what is compelling evidence. They might know what is new evidence, but you are asking them to do a legal interpretation of what is compelling evidence, and I think that is the reason why in United Kingdom it is phrased that way. New evidence, “new” is defined separately from “compelling evidence”. I think that is very important for this House to consider, and for the Attorney General to consider, when we reach to the committee stage—if this Bill reaches to the committee stage today—because they are all defined in the same way. (b) to (e) is defined exactly as we have in the Criminal Justice Act of the United Kingdom, but it is taken together in this Bill before the honourable House.

Madam Speaker, it says in our 65U(2) the following:

“The Commissioner of Police may make an application under subsection (1) where he is satisfied that the relevant evidence for the retrial of the acquitted person for the same offence has been obtained or is likely to be obtained as a result of the investigation.”

Madam Speaker, this word also here—“relevant evidence” is a bit confusing. Exactly what is relevant evidence, in the context of interpreting this piece of legislation? I think that is something that we ought to consider, or someone on the opposite side ought to highlight, or to indicate when they are responding, or when the Attorney General is wrapping up this Bill before us today. As I said, “relevant evidence” is potentially vague and an uncertain term, and I suggest that it has to be addressed.

Madam Speaker, as I peruse the Bill, I see at 65U that:

“Where the Commissioner of Police intends to carry out an investigation into the commission of an offence listed in Schedule I...he shall apply in
writing to the Director of Public Prosecution before commencing any
investigation.”
That is actually a safeguard in this legislation, and I think in light of the certain
Privy Council judgment involving certain Members in respect of the Piarco
enquiry, that is something of a constitutional check and balance, which we ought to
have in this Bill. I agree with that, he should apply in writing, but there are
exceptions to this and that is where my difficulty lies in respect of supporting this
Bill.

Madam Speaker, when you look and you go further into subclause (5), 65U
subclause (5):
“Notwithstanding subsection (1) an investigation may proceed without prior
condition sent of the Director of Public Prosecutions if authorised by an
officer not below the rank of Senior Superintendent.”
So we are asking the senior superintendent to be satisfied of what is new and
compelling evidence. I am saying he may not know what is compelling evidence,
as I said before, and:
“…he may be satisfied there is no evidence and he has reasonable
grounds to believe that new and compelling evidence is likely to be obtained
as a result of the investigation.”
It goes on at subclause (7) he shall record in writing:
“as soon as reasonably practicable”.
That uncertain time frame is a cause for concern, “as soon as reasonably
practicable”. It is something that should be definite so that the safeguards that we
have at the very early stage is protected, because at subclause (8):
“The Director of Public Prosecutions shall be informed, as soon as
reasonably practicable, of—
(a) any authorisation given under subsection (6); and
(b) all actions taken by the police since that authorisation,...”

So there is no time frame. So a police investigation into somebody acquitted of murder could go on for two years, because “reasonably practicable”, there is no definite time frame and, therefore, that is a cause for concern and that is something that you want to have a check and balance against the act and actions of those persons of the rank of senior superintendent and above. I think we should really look at that in this legislation before us. It is something that really concerns me, and I hope that it is noted by the hon. Members opposite as we traverse this Bill.

Madam Speaker, when you look at 65Y subclause (2), it deals with where the Director of Public Prosecutions not only has one application, but it gives the Director of Public Prosecution another opportunity. So save and accept the first opportunity in which the DPP would have had the cause to make an application to the Court of Appeal, we are seeing here where there is a power given to the DPP to make a further application, where there was a tainted acquittal, because of the commission of an administration of justice offence. I think that is something that we have to guard against, as we debate this Bill here before this honourable House.

Madam Speaker, if you look at 65Z subsection (2)(b), there is some provisions for the lapse of time, and those are some of the concerns I have in respect of this Bill before this House.

Madam Speaker, the major, major, major deficiency in this Bill, I think is in respect of 65ZB. Now, 65ZB deals with:

“A person shall not publish any information in a cause or matter for the purpose of identifying or having the effect of identifying—
(a) an acquitted person who is the subject of a police investigation referred to in section 65U;’’
If someone is charged with one of these capital offences, normally there would be quite numerous press stories about who was murdered, their faces sometimes would be littered over the newspapers and so forth. If they are acquitted, you are saying I do not have the similar right to have a similar piece of editorial in the newspaper in a similar vein showing that I have been acquitted, because somebody writing a story will not know whether that person is subject to any investigation, or whether subject to an application.

I think that grey area is something that we should consider, because it means to say when someone is acquitted, those in the press, with this legislation, for the fear of being in contempt of court, because the sanction listed here is a contravention under 65ZB subclause (7):

“A contravention of the prohibition on publication under this section is punishable as contempt of court.”

So they would be afraid to publish an acquittal, because there is no way of anyone of the press editors or newspaper knowing whether an acquitted person is subject to a police investigation or not, or whether there has been an application. I am asking, where will they find that information, and where is the justice for somebody who had their name littered over the newspaper for one of these capital offences? Where is their justice for having a similar type of reporting done in respect of their acquittal? I think that is something that has to be addressed in this debate here today for the integrity and for the guarantee of press freedom.

So, Madam Speaker, I just have one other point to make in respect of this, and it really has to do with the balance and then counterbalance of those of the State as compared to the individual. When someone is ordered a re-trial, they then have to have the additional burden of hiring lawyers to defend them, first at the application stage at the Court of Appeal and then, if there is a retrial, go through
the entire process. I think my colleague indicated the process is approximately 10 to 15 years, so you are looking at 30 years of a person’s life being subsumed in a retrial process. That is something that has to be addressed. If there was a turnover—quite an easier or quicker turnover of cases in the first instance, then there is something we could possibly live with, but having a process of 10 to 15 years and then you have another 10 to 15 years of having to go through this entire process again, and retain lawyers at exorbitant fees, that is something that raises my suspicion and my concern.

So, Madam Speaker, with those few words, I hope that the concerns raised will be taken by Members seriously on the other side, and some will be addressed in the preceding debate. With those few words, I thank you.

Madam Speaker: Member for Port of Spain South.

Mr. Keith Scotland: Madam Speaker, the prohibition against publication has been totally misunderstood by the hon. Member who just spoke. It is not a prohibition of an acquitted person that 65Z refers to, but it is the prohibition against the office of the DPP publishing that he is going for a retrial of someone who has already been acquitted. That is the first point.

The second point is there was a lot of whining, a lot of disgruntlement that you received the notice that there would be a debate yesterday on this Bill. Obviously we were supposed to debate something else, but it is not complete in the Senate and we have to get on with the people’s work. So the same time that the hon. Members on the other side were given notice that we were going to debate this Bill, is the same time that the Members on this side were given, and we are here and ready to do the work of the people.

Hon. Members: [Desk thumping]

Mr. K. Scotland: Madam Speaker, and quite simply, that is what we do. I wish to
focus on the amendments that are proposed to the Supreme Court of Judicature Act and the Criminal Procedure Act, and particularly clauses 4 through 6, because I want to state pellucidly clear, through you Madam Speaker, that this Bill and the clauses they do not abolish *autrefois* or double jeopardy. What the Bill proposes is an exception rather than an abolition to the rule of double jeopardy. So Madam Speaker through you, I wish to tell the population of Trinidad and Tobago that the rule of double jeopardy and *autrefois* is still well and alive in the tapestry of the criminal law and the criminal justice system in Trinidad and Tobago.

**Hon. Members:** [Desk thumping]

**Mr. K. Scotland:** The Bill proposes an exception that, in plain language, allows the office of the Director of Public Prosecution, and that office alone, the ability to pursue a prosecution in a matter where an individual was formally acquitted. Madam Speaker, that power—that power and that safeguard, is constitutionally guaranteed, because only the office of the Director of Public Prosecution has the exclusive remit to prosecute matters and institute prosecutions in Trinidad and Tobago. The Government has nothing to do with that. This Bill respects that exclusive dominion and there is no need to instill fear in the populace of Trinidad and Tobago.

Secondly, even in the exercise of the powers of the Director of Public Prosecution, there are safeguards that are preconditions before he can exercise this power. Firstly, the evidence that must be adduced must not just be new, but if you look at section 65W, it says “new and compelling”. We must know that the criteria therefore is conjunctive. The evidence must just not be new, but it must be evidence that ensures that it is cogent, compelling, highly probative and substantial. This is a second safeguard.

Thirdly, the acquittal has to be shown to be tainted. When we say tainted,
what we mean in plain language is that it must be as a result of—an acquittal must come as a result of some interference in the administration of justice: perjury, fraud, forgery, something that made that acquittal a non-acquittal. In other words, it was a bad acquittal in the first place, and we want justice to prevail, and that is what this legislation and this amendment is about.

Fourthly, Madam Speaker, the safeguard is that the prosecuting authority cannot on its own volition decide what is new and compelling evidence. [ Interruption ] Madam Speaker, in other words, it is not for the office of the DPP to just begin a fresh retrial. The safeguard of commencing a fresh retrial is placed in the capable hands of the Court of Appeal, and there was lots of heavy weather made as to the system of justice and what happens in the court.

Madam Speaker, for the last two years, whilst the country has been in the pandemic mode, not one day has the courts in Trinidad and Tobago been shut down. It operated every single day, bringing down the backlog of cases that was before it. So, Madam Speaker, it is not true to say that the system is not working, but the hon. Member from Barataria/San Juan would have us believe that, but it is not so.

But the main safeguard of the Court of Appeal, having the sole discretion to decide whether an individual should be retried, that itself has several layers of protection. The decision as to whether an individual should be retried must be done on an application. It is just not a judge, but it will be done before the Court of Appeal with three judges sitting, and on that application, if you look at section 65W of the Bill, it sets out the parameters. It sets out what the DPP must prove before the Court of Appeal in order to get and obtain a retrial.

Apart from satisfying the Court of Appeal that there is new and compelling evidence, or that the acquittal was tainted, the DPP must satisfy the Court of
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Mr. K. Scotland (cont’d)

Appeal that in all the circumstances it would be in the interest of justice to proceed with a retrial of an acquitted person. That is a major and fundamental safeguard that has been put in place for persons or for individuals who may be affected by this legislation, because it means that before any retrial is ordered, the Court of Appeal must go through the relevant safeguards. The first safeguard, Madam Speaker, is that this is not an ex parte. It is not an application that ought and will be done in the absence of the person who will be affected.

Section 65, I think W(2), says that an order will not be made unless the person affected was given an opportunity to be present, and if they are present an opportunity to be heard. That ensures that the rules of natural justice are observed upon the application.

And then, what does the Court of Appeal have to consider on such an application? Section 65W sets out a rigorous oversight of the Court of Appeal during this application, and I want to read a consideration that the Court of Appeal, or what governs the Court of Appeal upon that application. Madam Speaker, it says, and if you look at section 65V:

“When considering whether it would be in the interest of justice to set aside the verdict and order a retrial, the Court of Appeal shall have regard to—

(a) whether, in all the circumstances, a fair trial is likely;”

That is (a):

“(b) the length of time since the offence was committed;

(c) whether, since the previous proceedings and the current proceedings, the prosecutor acted with due diligence and expedition;

(d) the interests of any victim; and

(e) any other factor it...”—relevant consideration.

Madam Speaker, no one spoke about the interest of the victim, no one from the
other side. None of the honourable Members mentioned that, but the other features of protection in this ensures that the rule of law will be operative when the Court of Appeal considers an application. Five very exhaustive, and there is (e):

“Any other factor it considers relevant.”

Let me bring to the country’s attention, the other relevant factor that the Court of Appeal is bound to consider. The first one was glossed over, and I think without much insight by the hon. Member for Chaguanas West. The first principle that the Court of Appeal is guided on is that of Blackstone’s 1769: It is better that ten guilty persons escape than one innocent man suffers.

That is the corner stone of our judicial system. So when the Court of Appeal is considering the application that will be uppermost in the judicial mind of the Court of Appeal, but that is not all.

“Any other relevant factors” took us back, not just to the case of Nankissoon Boodram, which goes to delay, but it takes us back to the principles in Ketteman’s case. Ketteman is a case—and although it is a civil case, the principles of that case apply and will apply to the Court of Appeal. Here is what the court has to say:

“But justice cannot always be measured in terms of money and in my view a judge is entitled to weigh in the balance the strain the litigation imposes on litigants, particularly if they are personal litigants...the anxieties occasioned by facing new issues, the raising of false hopes, and the legitimate expectation that the trial will determine the issues...”—once and for all.

So in other words, in looking at the application, the Court of Appeal must bear particular reference to this principle outlined in Ketteman’s case. Whether or not the anxiety occasioned by this application is sufficient, when you balance the interest of the victim. When you balance the interest of the new evidence that must also be compelling, but it does not stop there.

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Madam Speaker, apart from that consideration, it is the consideration of whether or not such an application is an abuse of process. I am disappointed in the Member for Barataria/San Juan, having not brought to your attention—the hon. Member—the learning in “R v BD”, and that is contained in Criminal Court of Appeal Division, ECW 1997. In looking, because autrefois is just one narrow application of Connelly v DPP. A broad application of Connelly v DPP also speaks to abuse of process. So no legislation has been brought here that takes out or eradicates an application, or a response by an accused person that the application brought before the Court of Appeal is an abuse of process.

Hear is what the Court of Appeal had to say in Beddy:

The judge was entitled to look at the public interest and in the absence of any prejudice or unfairness in deciding whether it was just and convenient for the matter to be tried.

It is a balancing exercise. In other words, if an application is seemed to be abusive and abusing the process of the court, the Court of Appeal on that application, notwithstanding all other issues, will be entitled to dismiss the application. Therein lies the protection—therein lies the protection afforded to persons who may, who may be caught by this amendment.

Madam Speaker, I did not hear one of the hon. Members on the other side tell you that there are cases that have been decided. Where is the research on this same or similar pieces of legislation in England? I want to bring to your attention, and to the attention of the people of Trinidad and Tobago that, in fact, there is, and there are other cases. But in one particular case, Regina and MH—they did not call the names—and that is ECW 2015, Criminal Reports, 5A5.

In this case, a 77-year-old lady was bludgeoned in her home and died. The accused went to trial and was acquitted. Two years after the acquittal, DNA
evidence was found on the fibre of her clothing, and the DNA evidence implicated the accused person who was acquitted. The Crown Prosecutor, the equivalent to the DPP in Trinidad and Tobago, brought an application to have a retrial, and because the court found that there was cogent and compelling new scientific evidence, a retrial was ordered, and that lady got justice from the grave.

Madam Speaker, what is wrong with, if you are innocent and there is no evidence to convict, then you are acquitted? But if there is evidence upon which—and just not new, new compelling evidence—upon which a prosecutor can rely on for a conviction, what is the objection to the trial process being repeated? Yes, it may cost, and I say, Madam Speaker, we cannot bury our heads in the sand. It will put a burden on a person to have to find money to hire an attorney to defend them in a case, but there is also the safeguard of the Public Defenders’ Office. That is a safeguard, that is an option, and you have very experienced criminal attorneys who can do that, and there is also the Legal Aid and Advisory Authority, which is the umbrella body in charge of the Public Defenders’ Office.

We say that to say that there is necessarily no real legitimate objection that can be taken by the hon. Members on the other side to the implementation of this Bill, and the legislation. It has worked in other territories. Madam Speaker, I have given you the case of *Regina v MH*, and there are several other cases that have utilized the legislation.

Madam Speaker, how am I looking as it relates to time?

**Madam Speaker:** Your time expires at 2.10.28

**Mr. K. Scotland:** Thank you. Thank you.

**Hon. Members:** [*Desk thumping*]

**Mr. K. Scotland:** Apart from the legislation, there is also the consideration that the court has to take into account, as espoused by the Privy Council in *R v Reid*, the
seriousness and the prevalence of the offence, the expense and length of time involved in a fresh hearing, the ordeal suffered by an accused person on trial, and the length of time that would have elapsed between the offence and a new trial and, finally, the strength of the case of the prosecution. All of these are issues and legitimate considerations that the Court of Appeal will take into account when and if an application is brought before it.

2.00 p.m.

Madam Speaker, as it relates to the year and a day, I must confess, I never understood it in this first place. It is just something that was there on the books as it relates to murder. But a year and a day, why not a year and five days? Why not six months? So in this case, Madam Speaker, it is a rule that has existed on the law books that the time has come to revisit and we are now revisiting it.

Hon. Members: [Desk thumping]

Mr. K. Scotland: That is all. What it shows is that the Government continues to have its eye on the prize which is the safety of the citizens of Trinidad and Tobago.

Hon. Members: [Desk thumping]

Mr. K. Scotland: We not will sleep. We will go through the night. We will get notification at 6.00. We will come here at 10.00 and we will be prepared and we will not whine. We will do what we have taken our oath to do.

Hon. Members: [Desk thumping]

Mr. K. Scotland: Madam Speaker, I see as I used the word “whine”, the Member for Oropouche East wants to jump up. I understand. Madam Speaker, I thank you.

Madam Speaker: Member for Oropouche East.

Hon. Members: [Desk thumping]

Dr. Roodal Moonilal (Oropouche East): Thank you very much, Madam Speaker. And thank you very much to the Member for Port of Spain North—Port of Spain
South for acknowledging my intention to speak because I was looking on, the embattled Attorney General was also leaning to stand to wind up the debate, so I must thank the Member for Port of Spain South for pointing out that it was my intention to join the debate.

Hon. Members: [Desk thumping]

Dr. R. Moonilal: Madam Speaker, my friend from Port of Spain South today really looked like the brightest spot in the House and I thank him for raising a few issues which allow me the opportunity to respond on some of these issues.

Madam Speaker, I must indicate that it was not my intention to speak today. I had spent long evenings and nights preparing for the Bail Bill which apparently collapsed elsewhere and it was only late in the evening, I want to admit, that after putting on my pyjamas and saying my prayers and getting ready to retire for the evening, that the Chief Whip alerted me that this matter would be before the House. Notwithstanding that, Madam Speaker, I did manage to read sections of the Bill while at high speed coming up from San Fernando. I was not driving. And I did manage to peruse the Bill and will speak only on one issue primarily and respond to a couple of issues raised.

Madam Speaker, I will root my, it is a very short contribution on the issues raised at 65U “Director of Public Prosecutions to advise on retrial of acquitted person”. I will speak to that issue. But I will also say in response, Madam Speaker, that all things being equal, reforming the law is a fundamental dimension to our work. And laws, whether it is in the criminal justice system or in any other sector, require reform, require consideration and as time goes by it requires us to consider new policies, new programmes, new institutional frameworks particularly where they have been introduced elsewhere and they work. So there is no dispute with the need to reform laws and particularly in the criminal justice system which really is
in dire need of some reform. It is also in the interest of justice that we do that. And I agree with the Member for Port of Spain South on that note. It is in the interest of justice.

Madam Speaker, a couple of issues were raised earlier by a very erratic Member for Port of Spain North/St. Ann’s West in a conversation with us that was really upbeat and full of tempo I would say because I will choose my—Madam Speaker, as a practitioner of civility I would use terms that are parliamentary.

**Hon. Members:** [*Desk thumping*]

**Dr. R. Moonilal:** And in his upbeat contribution and with, you know, increasing his decibel level, he spoke of this Bill and indicated to us that there was no need really to find examples of why we need it. We need it because the law is in need of reform and it has been introduced elsewhere.

Madam Speaker, those of us on this side would beg to differ, in that, in the context of rampant crime, in the context of what we saw in the last 24 hours or so, one would think that there would be an order of priority in reform. There would be an order of priority and therefore you would come to the House with some priority in terms of what you want to do to deal with the crisis that we face.

**Hon. Members:** [*Desk thumping*]

**Dr. R. Moonilal:** And when you bring this piece of legislation—I was sitting listening attentively to all speakers on both sides of the aisle and I was waiting for anyone to tell us that look, we have had problems in this country where there have been acquittals and it was later discovered that the acquittals were tainted, to use the very relevant term and therefore they were polluted and therefore there was—there is an issue that justice was not served. And because we can point to case one, two, three, it is important that we pass this law. I was waiting for that. I have not heard it. Maybe in the wind up of the Attorney General he may choose to tell us
that.

But something also struck me from, Madam Speaker, straining myself to listen to Port of Spain North/St. Ann’s West, as I wanted to, something struck me when he said that, look, we may not have examples of why we need it but we need it and we are reforming. You see, Madam Speaker, the Member for Port of Spain North/St. Ann’s West made a point that they had apparently received a consultation and so on and opinions from two sources, the TTPS and Judiciary. Now, I can understand the TTPS giving advice on this or giving an opinion on this because they are participants, direct participants in the criminal justice system and therefore you would want to know the TTPS what is their position on this. If they believe that this is very important and this—and not having this defeats their work and defeats the justice system. But the Judiciary, it is quite interesting that the Government will tell us that they consulted with the Judiciary because as far I can think, the Judiciary’s contribution here should not be policy. It should be whether they have the institutional capacity to do a retrial or several retrials.

**Hon. Members:** [Desk thumping]

**Dr. R. Moonilal:** Because while we talk about separation of powers and we do not want to tread on the power of the Judiciary, their role and function enshrined in the Constitution, they, this Judiciary ought not to tread on the power and role and responsibility of the Parliament.

**Hon. Members:** [Desk thumping]

**Dr. R. Moonilal:** And policy is made in the Parliament. Law is made pursuant to policy. And the Member for San Juan/Barataria indicated that we did not have sight of their policy on this matter. We had sight of the amendment Bill which is an omnibus, miscellaneous Bill but we did not see their policy document that gave rise to this matter.

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[MR. DEPUTY SPEAKER in the Chair]

I am very curious as to, in what circumstance and what context did the Judiciary comment on this. It must only be as a matter of institutional capacity. It cannot be a matter of policy because the Judiciary ought not be involved in policy and law-making in that sense. And, Mr. Deputy Speaker, that struck me when we could not get from the Government a commitment, we could not get from the Government a statement that the Director of Public Prosecutions was consulted and opined that this was important, this was a priority. We need this.

Hon. Members: [Desk thumping]

Dr. R. Moonilal: Because you would think the most important office here is the DPP and the DPP ought to have commented one way or another by either saying yes, this is good law, we would like this, this would help. Or by saying no, this is unnecessary at this time. “If you give me the office you promised five years ago, I will happy. If you give me the staff, if you give me, ink, pens, paper and a typewriter, I would be happy but this is not necessary.” But the DPP—we have no word from the Government and I am hoping before this debate closes, the Government can tell us, did the DPP comment on this, yes or no and what was the view of the DPP, because that is the critical office here. To tell us, look, something has happened in this country over the years and because of that there has been a serious case of injustice and we have found somebody—and I was very curious about this, somebody in a dying bed coming to tell you the truth before they died. Who died and came back and told us that, before they died they wanted to tell us the truth?

Hon. Members: [Desk thumping]

Dr. R. Moonilal: I mean this notion is rooted in different, you know, myths and so on that the dying man will tell you the truth and so on. And that is fine. There is a
legal, you know, there is a legal principle concept involved in that and so on, but a dying man could decide to lie, to be malicious. If he has a lifetime enmity with someone—

**Mr. Deputy Speaker:** Hon. Member, I think use a different word.

**Dr. R. Moonilal:** The dying man, Mr. Vice-President, can decide—

**Mr. Deputy Speaker:** No. Not with regard to the person you are talking about. The term that you used earlier.

**Dr. R. Moonilal:** I withdraw that term which I used.

**Mr. Deputy Speaker:** Okay.

**Dr. R. Moonilal:** It is unfortunate. The person on his death bed can decide out of malice, out of hate or out of a lifetime of animosity against a neighbour, a relative, an ex-wife or ex-husband, somebody familiar to her ex-wife or ex-husband could decide, look, I am malicious and I would change my story and now tell an untruth. So this notion that, you know, we are doing this because the man lying down on the bed is going to die will tell us the truth, is really rooted in something else. It is not rooted in any practical evidence as far as I can see. So I leave that there. So I go back to this point of the DPP. The DPP ought to be consulted and ought to indicate, yes, no, or indifferent, what is his view on this matter before us and that is a serious matter.

Mr. Deputy Speaker, when the Attorney General presented this, there was almost a “Naipaulian” moment. You know, it was like a paragraph from *The Mimic Men* that the Attorney General will speak about perjury and would speak about, you know, false declaration and so on causing retrial. And in one case increasing penalty for false declaration. That is a “Naipaulian” moment, Mr. Deputy Speaker, that I will leave right there because civility does not allow us to continue.

Mr. Deputy Speaker, the other matter I wish to raise, yes, is rooted in 65U
and I will just read a couple of the sections so we will be very clear on it. I think the Member for Port of Spain South touched as well:

“Where the…Police intends to carry out an investigation into the commission of an offence listed in Schedule 1 by an acquitted person in relation to the retrial of that person…he shall apply in writing to the…”—DPP—“before commencing…”—the Commissioner.

“The Commissioner may make an application under…(1) where he is satisfied that the relevant evidence for the retrial…acquitted person…”—et cetera.

And it spells out the role and what the DPP ought to do. But at subsections (4) and (5) it says:

“Notwithstanding subsection (1),”—which I read earlier—“an investigation may proceed without prior consent of the…”—DPP—“if authorised by an officer not below the rank of Senior Superintendent…”

Not below the rank of Senior Superintendent. This is a very interesting point. Now, a Senior Superintendent in the way the TTPS operates is not the man or woman himself or herself who is investigating anything. It is constable, corporal, sergeant and so on who will recommend to a Senior Superintendent, look, there is a case here that we need your consent. We cannot proceed without—we cannot proceed because for one reason or another the DPP cannot authorize at this moment. Now, what are the circumstances that will lead to that? I mean, the DPP office is there. There is a DPP or an acting DPP every day of life, I think. What prevents this police? What emergency you can have that a senior—I want to tell you something. If you go ahead with this which you ought not to and I reiterate the Member for Chaguanas West, this ought to go to a joint select committee of Parliament to consider.
Hon. Members: [Desk thumping]

Dr. R. Moonilal: Chaguanas West advised us. But this has of be deleted because there can be no—what circumstance that 24 hours a day on an island, on an island where everybody knows the WhatsApp and telephone number of the DPP or acting DPP as the case may be, something so urgent that a police officer has to—Senior Superintendent has to be influenced or advised by junior officers to recommence or to commence a second investigation where someone has been acquitted. What could be that? I mean, clearly you can contact the DPP, acting DPP, quickly get his or her consent as the case may be and proceed. What urgent action is required to prevent this, you know, an investigation? And I do not buy into this thought of, you know, a man lying down dying and so on. This is an island. This is an island, in a touch of the phone you contact anybody, you contact the Prime Minister and ask him for his view on whether he did due diligence on the Attorney General and so on. You do that quickly. But the circumstances of the DPP is where I am. I am not onto that matter.

Mr. Deputy Speaker, the:

“…Senior Superintendent…”—

It says at 6:

“A Senior Superintendent may authorise the investigation…where—

(a) he is satisfied that new and compelling evidence has been obtained which would be relevant…”

So, the Senior Superintendent can authorize the investigation where he is satisfied. So why could you not take a few minutes, an hour or two hours and satisfy the DPP as well? Because you are satisfied. And I imagine that there must be a test, there must be some logical framework within which you are satisfied. Well, satisfy the DPP. Do not satisfy yourself alone.
“where—

(b) he has reasonable grounds to believe that the new and compelling evidence is likely to be obtained as a result…”

Well, that is the same process as if you get the DPP’s authority because it is the same thing you—I believe that we have new and compelling evidence so you go to Mr. DPP and say Mr. DPP, “Look, look, look, we believe we have new and compelling evidence”. And it would not be hard to convince him. So the point here is that you cannot find him. That is the urgency, that you cannot find him or you do not want to find him. At 7:

“An authorisation by the Senior Superintendent…shall be recorded in writing by him as soon as is reasonably practicable.”

When is “reasonably practicable”? One day, one week, one month? Because that is all depending on circumstances, I imagine. When is it? Within one week? In some pieces of legislation we say within three days, within five days, within one week of something. But leaving it open like this to say as reasonably practicable with a police service that is relatively small on an island with one capital, you know, why are you leaving it like that? That could have easily been within three days, within five days, within seven days. So you get the police, assuming you want to go this way to conduct their business quickly and consult the DPP and seek authorization.

And once you inform the DPP, the authorization given under 6 which is police, all actions taken by the police, send that or you then write and give—the DPP gives you written consent. So that written consent, Mr. Deputy Speaker, comes after several things:

“…questioning, search…arrest of the acquitted person;

(b)…issue of a warrant for the arrest…

(c)…search of property…premises…”
(d)...seizure of property…”
All of that happens before the DPP gives consent; all. So the Government is playing a little footloose there. Yes, the DPP will give consent. Yes, the DPP has to give consent but in those circumstances which we have not spelt out, apart from a man lying down dying, we have not spelt out what are these circumstances that the police cannot wait a few hours or one day or half a day for the DPP to give his consent. And that, Mr. Deputy Speaker, I believe, is a serious matter and it is related to the last 24 hours in our history.

Mr. Deputy Speaker, this is to be implemented, this section, the role of the Senior Superintendent—and when you say Senior Superintendent, it is not him or her. It is the investigating officers who will advise and seek his or her sign off, authorization because that person is not investigating anything in reality. So you are giving police this type of right to return to an investigation after an acquittal because they have found compelling evidence which is so compelling that it may vaporize before you go to the DPP so you have to act now. But, Mr. Deputy Speaker, this may work in countries that have a high level of confidence in the police service.

**Hon. Members:** [Desk thumping]

**Dr. R. Moonilal:** And in this country with great respect, policemen do not have confidence in policemen. Forget the rest of the population.

**Hon. Members:** [Desk thumping]

**Dr. R. Moonilal:** If you poll the police officers they will tell you they have no confidence in the next police officer, far less the population. Yesterday, that madness and mayhem had at the root the loss of confidence in the police. Whether they are right or wrong I am not pronouncing.

**Hon. Members:** [Desk thumping]
**Dr. R. Moonilal:** I am not pronouncing whether the police are right or wrong. I do not know. I do not investigate that. But what I am saying is that, that is rooted—a reporter was on social media yesterday. He said when he landed at a street in Port of Spain they were pelting him because they thought he was police. And then amazingly the protestors apologized to him when they found out he was not police. That is a lack of confidence. So you cannot introduce laws like this that give the power to police after an acquittal to go back and arrest, and search, and question, and detain, and so on, where you do not have the requisite lack of confidence. And that is a public policy issue. It is an issue of government. The role of the Government in our system is to not only give resources, not only hand over resources to the police but to guide with policy, with programme to ensure if confidence is an issue, we lift the confidence. When Gary Griffith was there, there was a 47 per cent confidence in the police service. That has gone because he has gone. Maybe he comes back, I do not know, but that has gone.

So that the Senior Superintendent, the Senior Superintendent in this set up here, has that power which he ought not to have. If there is an issue of retrial, if there is an issue of new evidence coming, surely it can go to the DPP and the DPP can look at it quickly, quickly and decide, “look, in the interest of justice I agree”. Because look at the other side which I will not belabour. I think several people have raised that. People wait 14 years for a trial, then something happens, they go and try them again, have to pay lawyers, have to pay—well, never pay. You can spend your entire life in jail without two trials effectively. So that is a serious issue. That is a serious issue.

And the Member for Port of Spain North/St. Ann’s West made another remarkable point which we tried to flesh out because he was so loud that it was hard to pick him up but he said that this will help in some way with the Akiel
Chambers matter but nobody was acquitted in that matter. In fact, I do not know if anybody was tried. There was certainly no acquittal, to my knowledge, so I do not know how that will help. Unless again, there is knowledge that we do not have, we do not have before us.

And, Mr. Deputy Speaker, in closing, because I promised you that I will not exhaust the kindness of the House, I want to end by saying that, there is an inherent jurisdiction of the court to protect itself from abuse. The courts in our domain, in our legal framework, the court has an inherent jurisdiction to protect itself from abuse, an abuse of process, abuse by the Executive and therefore, Mr. Deputy Speaker, by extension this Bill may allow for abuse of process which the court ought to protect itself from and we as Members of Parliament, lawmakers, we have a sacred duty as well.

And I keep telling my friends opposite that today you are in the Government, tomorrow you are in the Opposition. That is how it works in our system and one day all of you may look to all of us, most of us, some of us, I do know. And then you will say, “wait, you think we should have put more safeguard in the law”? But clearly you trust us that we will not abuse office. But always remember when you make law, you do not law for yourself, for your party and not even for your five-year government. You make law forever, for a long time before it is reformed. And always think that it will not be you. It will not be you in office. It may not be the crop of current police officers we have either, some very good men and women, very good men and women. And I want to join the political—the Leader of the Opposition in complimenting the Trinidad and Tobago Police Service for their handling of the events in the last 24 hours.

Hon. Members: [Desk thumping]

Dr. R. Moonilal: We do not support law-breaking. While we understand the
passion, we understand the hurt, we understand the pain of persons who perceive injustice, they perceive that an injustice was done, we cannot at any time condone law-breaking. And therefore, we also compliment the police, the Trinidad and Tobago Police Service and other arms of national security, as leaderless as that Ministry may be, we commend the agencies, the institutions for the work that they did yesterday as well.

Mr. Deputy Speaker: Hon. Member, remember we are not getting to the personalized scenario. So let us stay away from that.

Dr. R. Moonilal: Mr. Deputy Speaker, I will drift away quickly. But to say that yesterday’s events highlight this lack of confidence in law enforcement, particularly policing. It is something that we must meet and treat with and it is a national challenge to deal with, and unless we do not deal with that, Mr. Deputy Speaker, we run a serious risk of those events repeating themselves. And dealing with those events is not just arms and ammunition and weapons and manpower. It is engagement with the communities. It is employment creation. It is social policy. It is understanding their perception of hurt and pain when something happens in their community and if we are involved in the communities, then there is a less likelihood that that can happen. But that requires public policy framework, it requires leadership, it requires some help to ensure that those events yesterday, mayhem and madness never occur again.

So, Mr. Deputy Speaker, I have made—my one main point was really on that superintendent of police matter. I have made some comments on some other issues raised and so on and I would like to remove the bails. Thank you very much.

Hon. Members: [Desk thumping]

Mr. Deputy Speaker: I recognize the Member for Laventille West.

Hon. Members: [Desk thumping]
Mr. Deputy Speaker: And, Member, you have 30 minutes.

The Minister of National Security (Hon. Fitzgerald Hinds): Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, I observed quite happily that you did accord the Member for Oropouche East a modicum of latitude as he treated with some of the issues that confronted us and we had to confront in the city of Port of Spain yesterday. I will not dwell on it myself. I heard the Member make recommendations that the resolution to that, and I agree with him, could not only be about law enforcement, as was very effectively instituted yesterday, but it had to do with unemployment and social issues, issues of education and all of these matters that we have been providing as a government. In fact, from the independence—from the time we became an independent nation providing opportunities for the young people in this place.

And in 2018, there was this kind of upheaval as well. We instituted the Community Recovery programme where Prof. Watson led it and identified a number of issues interfacing intimately with the communities himself and his team and, of course, the policy and the recommendations were accepted by the Cabinet and have been dispensed through various Ministries, Education, Youth Development and National Service, community development; all of the Ministries in order to give life to some of the recommendations of Prof. Dr. Watson’s—Dr. Watkins’ committee, so I can assure you.

But some of the other things you have to take into account that will resolve those matters is that when in government you cannot be discriminatory and deny some people some things. You cannot practise racism and discrimination. You have to be equitable in your dealings and in your governance arrangements. I will content myself with saying that. And most of all as public officials we ought not to interfere lavishly with public money and find ourselves before the court and under
investigation as has happened from time to time in the history of Trinidad and Tobago, the recent history even. So let me proceed.

The Member for Oropouche East did speak a bit about abuse of process. And, you know, other speakers in this debate, Mr. Deputy Speaker, did address that issue but apparently it escaped the Member for Oropouche East.

The Member for St. Ann’s—Port of Spain North/St. Ann’s West, the Attorney General, the Member for San Fernando West treated with this matter, demonstrating that the very provisions in the Bill before us to amend the Interpretation Act, to amend the Supreme Court of Judicature Act, to amend the Offences Against the Persons Act and the Criminal Procedure Act, this Bill before us does exactly that.

We were told, the Member for Port of Spain South even, we were told and we all know that the common-law notions of *autrefois acquit* and *autrefois convict*, these stood until such—and they generated little discomforts and issues because there have been cases where persons—and the case of Connelly which was utilized in this debate is a perfect example of that. Connelly and others were charged for murder and robbery and the facts were already made known to us. But the bottom line is, there were some principles that came out of that case:

One, a man not may not be tried for a crime in respect for which he had previously been acquitted or convicted. Two, a man cannot be tried for a crime in respect of which he could on some previous indictment have been convicted. A man cannot be tried for a crime which is in effect the same or substantially the same as a crime for which he was previously acquitted or convicted or could have been convicted by way of alternative verdict. And the last principle in Connelly, what has to be considered is whether the crime or offence charged in the later indictment is the same or is in effect or is
substantially the same as the crime charged in the former indictment and it is immaterial that the facts under examination or the witnesses being called in the later proceedings are the same as those in some other earlier proceedings.

2.30 p.m.

And the court in the Connelly matter disregarded his plea of *autrefois acquit* and held up the principle that he could be charged again under the other indictment for robbery arising out of the same facts. And I am satisfied, Mr. Deputy Speaker, that the proceedings or the procedures outlined in this Bill treats with all of those principles. Remember, the UK abandoned these principles in 1996. Other countries, New Zealand, Australia, Canada, others—United States, some states, at any rate, moved from the old common law position and allowed for persons to be retried in the circumstances described here as the technology improved and the circumstances might warrant.

The Member for Oropouche East questioned whether we were able to produce any actual cases to justify what we were offering here. He complained effectively that we did not identify any specific case or cases in Trinidad and Tobago that warranted this. I want to say to the Member two things. The Member for Port of Spain North/St. Ann’s West already pointed out, *ad hominem* is a principle that is unconstitutional. We had in this country a situation where laws—a law was passed, in particular section or clause 34, with a particular group of persons in mind. We had to rush quickly on a Saturday—I was in the Parliament—and repeal that. Because as my colleague pointed out, within the hour of it being proclaimed on an independence night, others benefitted from it. This is not about that.

On this occasion, the Office of the Attorney General and Ministry of Legal Affairs—the lawyers employed in the Office of the Attorney General and Ministry
of Legal Affairs, working on behalf of the State and the people of this country, recognizing that law is an evolutionary, organic, socially responsive tool, decided in light of the international observation and certainly our experience here, decided that we should use these amendments to advance the law and bring Trinidad and Tobago in line with current international best practices. Nothing untoward or surreptitious about that I submit. It was an intellectual exercise with a view of modernizing the law of Trinidad and Tobago.

When I was in the Office of Attorney General and Ministry of Legal Affairs, I encountered antiquated laws and tackled a couple of them. One was the—tackle the law to create criminal offences out of occupying other people’s property and using force and threats in order so to do. We did that. And the Attorney General at the time, the Member for San Fernando West, will tell you I also had a good look and had begun to do work on the Larceny Act, which operates in Trinidad and Tobago, an Act that was born and still survives and we live by it today in Trinidad and Tobago, in 1916, long before our independence. And, of course, those from whom we inherited it, in 1968 and 1978, as long ago as that, repealed and abolished their Larceny Act and replaced it with the theft Act.

And while I was in the Office of the Attorney General and Ministry of Legal Affairs, we begun work on the review of that Larceny Act with the view of modernizing the larceny—what was larceny to theft in Trinidad and Tobago. Nothing is wrong with that. But they are accustomed to ad hominem approaches and the Member complained about that.

**Hon. Members:** [Desk thumping]

**Hon. F. Hinds:** I heard several speakers on the other side talk about the Constitution. Well, I heard the Attorney General today go through the principles as espoused in the Dominic Suraj case, and he did so in a previous debate in this
House, and he did so as recently as yesterday in another place. And it appears as though he will have to do it over and over and over again before it sticks in the heads of our friends on the other side, so that they would understand that in that very recent—hot off the press, in that recent judgment, it held up the supremacy of the Parliament of the Republic of Trinidad and Tobago. And saying that all law making, of course, began here and not withstanding section 13 of the Constitution; notwithstanding the rights modelled on the Canadian Bill of Rights, established in section 4 and 5 of our Constitution—the Republican Constitution, notwithstanding that, it is for the Parliament to make the laws and it does not mean, especially when you have the—to form the Government, you have the majority. And that cannot be taken lightly.

And this call for super majority provisions, and you cannot pass law unless you get special and super majorities, the court opined in its way that that is really allowing the minority to stymie the development and the aspiration of the majority.

Hon. Members: [Desk thumping]

Hon. F. Hinds: He explained that. And they constantly, on the other side, demand and expect that every Bill that comes here should have the need for special majority. When it comes without that, they do not like it because they want to use that in an obstructionist posture. And I commend them to the case of Dominic Suraj. When they read and absorb and understand it, they may step down from their nonsensical postures.

Mr. Deputy Speaker, I have found that the provisions in front of us really deals with all of the principles that we saw in the case of Connelly, to which I and others Members alluded earlier. But before I come to some of them, the question was asked: Why were the views of the Judiciary sought in the preparation of this legislation? I simply want to say that has been a long standing practice that the
records of this Parliament and the records of the Office of the Attorney General and Ministry of Legal Affairs will easily demonstrate, took place a whole lot of times between 2010 and 2015, and before that. Nothing strange about that. Because nobody interferes with the independence of the Judiciary in the context of telling them how to decide cases and in their judicial activity. The Judiciary has an administrative element as well.

When we pass certain laws, we want to know that they have sufficient judges, sufficient courts, we want to know that there are sufficient criminal lawyers, we want to know that they have the resources in order to give life to what we pass in this House. And as a result, consultation between the Parliament and the court is often necessary. Not that the judges want to encroach on the estate of the Parliament and its functions, and not that the Parliament wants to encroach on the estate of the Judiciary and its processes, its judgments. That is not the case.

So, I hope that that provides an answer to the Member for Oropouche East. Nothing untoward about that. Nothing like having discussions with someone who is on the bench and getting him the next week to come and appear as a UNC candidate. Not like that.

**Hon. Members:** [*Desk thumping]*

**Hon. F. Hinds:** Not like that. And I think I heard the Member for San Fernando West say to this House that approaches were made in consultation with the Law Association, it did not provide any commentary having asked for an extension of time. Approaches were made to the Office of the DPP and I suspect because of the DPP’s pressing schedule and maybe for other reasons no submissions were forthcoming but the ship of state had to move on. And in any case, the Office of the DPP, established as it is under section 90 of the Constitution—the DPP, as an independent operator, acts independently, established under the Constitution, as I
have said. But the DPP, like every one of us, must follow the law. So, if the law permits and we pass these measures and the law permits these, the DPP will apply them just as if it did not exist and we were still on the common law tracks. So, the ship of state moves on.

Let me look, Mr. Deputy Speaker, at the question of confidence. I heard the Member for Oropouche East say, as he read the provisions of this Bill, in particular clause 65U with the side note:

“Director of Public Prosecutions to advice on retrial of acquitted person”

When he read through some of that and he came to the question of the investigation, which must be authorized by a senior superintendent of police, he took the opportunity, as he is wont to do, to raise questions about confidence in the police, I would like to say that there are many occasions when the conduct of police officers earned properly so the respect of the society and the respect of their colleagues in that esteemed organization. In fact, in the majority of the cases, that will be it. And, of course, there are far too many cases where the actions of some police officers earned a lack of confidence onto themselves and certainly onto the entire institution of the police service coming from the public.

In the manpower audit report, if I may just say so quickly, which was chaired and led by Prof. Ramesh Deosaran, the question of confidence in the police was tested by surveys among police officers and among interest groups in the society. A very credible survey was conducted and it revealed that there were challenges, well known to us for a long time, about public confidence in the police. But as Minister of National Security, as a former police officer myself who trained police recruits at the police training college, and as a Member of Parliament of long standing, I have seen when individual police officers, or even acting in small groups, broke the laws of Trinidad and Tobago and cost the police institution some
element of the confidence that we ought to repose in it. I have seen police officers investigate those matters, charged for those matters, prosecute those matters through the courts and the penalties flow according to the law. There are many police officers convicted, or several at any rate, who have gone to jail having been convicted of criminal conduct, just like any other profession or any other society, including politicians in this country and “who ent gone to jail yet, some ah them on dey way to jail”.

**Hon. Members:** [*Desk thumping*]

**Hon. F. Hinds:** Sadly but true. We have the institution of the Police Complaints Authority established under the laws made in this very Parliament which accords the citizens the right to make complaints and the mandate of the Police Complaints Authority is to deal with serious police misconduct and corruption. They receive a number of complaints about police officers. They eventually categorized them and those that they cannot treat with, they say so, and the person can go and take other forms of action. When the PCA investigates, it issues a report, it sends that report to the Police Commissioner and, of course, to the Director of Public Prosecutions. And both office holders treat with it. There is inside of the police service today the Professional Standards Bureau and they are very active and busy investigating the conduct and the behaviour of police officers. And to some extent, that function is carried on by the Special Branch as well. All of these demonstrating that, institutionally, the service is to abide by the Police Service Act and the other laws and the Constitution of Trinidad and Tobago at least insofar as the appointment of a Deputy Commissioner and a Commissioner of Police is concerned, and they are monitored, hired, disciplined, everything, by the Police Service Commission in accordance with the Constitution of this country. And we have seen high office holders, including Commissioners, bring themselves and this country and the
police organization into grave disrepute. We saw that. A Police Commissioner was charged for narcotics in this country already and God knows which other Police Commissioner may be charged in the future.

So, I am saying that, institutionally, there are measures and—instiutions, sorry, in place to deal with breaches on the part of police officers and the public must know that and continue to have confidence in the police organization and the ethos that drives it in this country. And there are some who will speak loudly about the police service but in their own circumstances, they too do not win public confidence. But that is a matter for later.

And finally, Mr. Deputy Speaker, as we deal with this to improve the system and to bring about fairness—because there are many occasions that we celebrate, when after 25 and 30 years—I saw this when I was a law student, 18 years after they were convicted and sent to jail, the Birmingham Six, they went and they found a statement that was given to the police by one of the convicted persons accused of a terrorist act in the United Kingdom, the so-called Birmingham Six, I think it was. And 18 years later when the technology improved, at a university in England, they were able to do some tests on the original statement. The document and the test was able to demonstrate that there was what we call in policing “overwriting”. When the statement was given, persons would have written over and inside of it which was used to convict one of the men.

**Hon. Members:** [Desk thumping]

**Hon. F. Hinds:** The technology advance allowed that. It was not the case when the man was convicted and sent to jail. And as a consequence, we all applauded and felt good at a human level and at a professional level that justice came. And if we could do that to liberate those who were wrongly convicted then we should, on the same basis, not allow those who committed crimes and got off on some
technicality to just go free.

So, these measures here are designed to ensure that even though a person might have had a tainted acquittal and escaped justice in the right kinds of circumstances as detailed in the measures before us, he or she will have their day, the real day in court. Because you will be surprised to know the lengths at which people go to avoid their day in court.

The Member for Oropouche East spoke about 14 years for a trial and, yes, that is an inordinately long time, not unique to Trinidad and Tobago because we saw in Canada some time ago, in the case of the—in the Canadian Supreme Court, their highest court, the case of Johnson—the State and Johnson. Let me just say the State—R v Johnson. Johnson was convicted of drug dealing and his trial, it was not until about 36 months after he was charged that he was convicted. And he and his lawyers went and challenged the fact that he did not have a swift enough trial and there was a breach of the Canadian Constitution in so denying him an early trial. And the Canadian Supreme Court upheld it and said, look here, to the Canadian Criminal Justice System, that you have to complete every single criminal case after 18 months. All the processes must be concluded in 18 months. The Canadian Supreme Court gave them a tight deadline of 18 months. And if that is not completed by 18 months, the onus moves from the accused to the State to show why he should not be released, to show why they are not in breach of the Constitution. That happened in the case of R v Johnson, let me call it that.

So, our criminal justice system is slow, as the Member for Oropouche said, too show. But I can tell you, from the Ministry of National Security, we have the Forensic Science Centre responsible for some scientific methods and aspects of our investigative process; we have the police service; we have the prison service; we have the probation service, all of these constituent parts of the criminal justice
system.

And I give you, Mr. Deputy Speaker, and the people of this country, we have been giving sustained attention to every one of them with a view of them quickening their game and contributing to a faster game for the entire criminal justice process. We are doing that. And I am aware that in this Parliament, for the last seven years, we have passed a suite of legislation, of all types, improving the criminal justice system. The work is ongoing and again, having consulted with the court, I am aware that the courts are taking—the Judiciary is taking action to improve their game so that together we will all have a more efficient and swifter criminal justice system. But the measures in front of us, Mr. Deputy Speaker—and I too want to have a quick look at section 65U, as did the Member for Oropouche, if only to demonstrate his misunderstanding of some of it or his cleaving to a preconceived notion that did not allow him to read the lines of this sufficiently well to have avoided the criticisms that he tried to put upon it.

First of all, in terms of this Bill, Part IIIC is now being introduced and the subtitle to that, if you like, is:

“Applications to Squash Acquittals by the Director of Public Prosecutions”.

Not by Parliament, though we pass the law; not by the Government; not by the Minister of National Security but by that independent, professional, qualified, office holder called the Director of Public Prosecutions, in whom we have reposed a tremendous amount of confidence, entrenched it in the Constitution and who in fact acts independently and professionally at all times, as far as I know.

Mr. Deputy Speaker: Member, you have two more minutes.

Hon. F. Hinds: How much more?

Mr. Deputy Speaker: Two.

Hon. F. Hinds: I thank you. So, Mr. Deputy Speaker, time has run, we have gone
through these measures but I am satisfied that the very detailed provisions here, most of my colleagues—all dealt with all of them. I was going to rehash some of them for the benefit of the Member for Oropouche but time has run. All I can submit, as I close, is that all of the very detailed provisions outlined here are in keeping with the highest standards of law making in this Parliament of the Republic of Trinidad and Tobago, after the Office of the Attorney General and Ministry of Legal Affairs would have done its work, and this is to bring Trinidad and Tobago up to speed with the rest of the world. Many other countries have done this and it is designed, Mr. Deputy Speaker, to make sure that the process is fair and it can meet the standards of the court, and I have no doubt that it will, all designed to bring better justice to the people of Trinidad and Tobago and to ensure that no schemer, no scamp, no criminal would not on a technicality simply walk away unscathed. I thank you very much, Mr. Deputy Speaker.

Hon. Members: [Desk thumping]

Mr. Deputy Speaker: I recognize the hon. Attorney General.

Hon. Members: [Desk thumping]

Mr. Deputy Speaker: You have 30 minutes in your winding up and—

Mr. Hosein: [Inaudible]

Mr. Deputy Speaker: No, Member for Barataria/San Juan, please, we went through this already for this sitting and I am not going to tolerate it again. You are—hold on, I am on my legs, I am on my legs. For those of you all that are leaving the Chamber, please leave so in proper decorum.

[Opposition Members exit the Chamber]

Mr. Young: “And don’t come back.”

Hon. Members: [Crosstalk]

Mr. Deputy Speaker: Silence.

UNREVISED
Mr. Young: Tabaquite, take this for Saddam.

[Raises hand showing a napkin]

Mr. Deputy Speaker: Hon. AG, you have 30 minutes in your winding up; 30 minutes in your winding up.

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC): Thank you very much, Mr. Deputy Speaker. I suspect I will not take as much as 30 minutes and the main reason for that, which I will immediately commence with, is to acknowledge my indebtedness to the very comprehensive responses that have been provided to the debate today by Members of this side.

Hon. Members: [Desk thumping]

Sen. The Hon. R. Armour SC: And I mention, in particular, the Members for Port of Spain North/St. Ann’s West, the Members for Port of Spain South, San Fernando West and Laventille West. Very comprehensive—

Hon. Members: [Desk thumping]

Sen. The Hon. R. Armour SC:—taking very seriously the task that we have at hand and making my job in winding up comparatively light. But let me commence my wind up by also acknowledging my prompt from the Member on the other side, the Member for Oropouche East, who reminded me that we should speak to the prioritization that this amendment focuses on. And that prioritization is because this amendment is dealing with serious crime. So, I am grateful to the Member for Oropouche East to remind me that, among other things, that we are looking at in Schedule 1, Schedule 1(i)

“an offence under the Prevention of Corruption Act which is punishable by imprisonment for a term of ten years or more;”

And Schedule (l):

“an offence under the Proceeds of Crime Act which is punishable by

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imprisonment for a term of ten years or more;”

Other sections of Schedule 1 have been referred to, I do not need to repeat them. But in the list of serious crimes, we accept also, in addition to those which the Member for Oropouche East reminded me to prioritize, we are also dealing with offences under the Anti-Gang Act, Offences Against the Persons Act, the Dangerous Drugs Act, an offence under the Kidnapping Act, offences under the Sexual Offences Act, offences under the Anti-Terrorism Act, an offence under the Trafficking in Persons Act, offence under the Firearms Act.

So, Mr. Deputy Speaker, we understand the seriousness of the commitment of this Government in bringing this amendment to the attention of the Parliament and to this House so that we can get on with the business of governing the country and included in that business of governance, to address the state of the crime situation in this country which requires us not to give licence to persons who would pervert the course of justice and that is, for instance, addressed in this amendment Act to which I have already referred in my opening remarks on the piloting, that is, the administration of justice offences.

Mr. Deputy Speaker, I have said, and I do not intend to repeat it, that the Bill before this court is a comprehensive suite of amendments to a number of different pieces of very important legislation. I want to emphasize that the consultation process has been thorough and I have already gone on record as indicating those whom we went to for consultation and we are indebted to them, and that has already been addressed by another Member on this side and I am not going to repeat those remarks.

One of the points that I will dwell on, just by way of emphasis because that too has been so comprehensively addressed by the Members on this side who followed after my presentation, is, of course, that decision to which I have
returned so often in the last couple remarks that I have made before this House and the other place and that is the Dominic Suraj matter. Because I believe one of the Members on the other side purported to suggest that there is something about the legislation that would render it unconstitutional given that it requires a super majority.

3.00 p.m.

And I would remind the Members on the other side once more, of paragraph 71 in particular, of the decision of the Privy Council in Dominic Suraj and others decided on the 20th of June of this year, 2022, where in the Privy Council acknowledging the robust work of that constitutional text, *Fundamentals of Caribbean Constitutional Law* written by none other than the President of the Caribbean Court of Justice Mr. Justice Adrian Saunders, Ms. Tracy Robinson, and the other author, another Caribbean person. This is what the Board said in relation to the suggestion that every piece of legislation that comes before this Parliament must be passed by a special majority. Quoting from *Fundamentals of Caribbean Law*.

“…the effect of that would be to give a veto to a minority of unelected…”—or elected—“…members of the Senate. As explained above…”—says the Privy Council—“…that right of veto would extend across a large part of ordinary legislative activity. In the Board’s view, it cannot have been the intention of the framers of the Constitution that democratic processes of law-making and the democratic nature of the state should be compromised by creating such a veto power in a minority of…”—the Parliament.

Those are the words of the Privy Council in addressing the critical choices to be made by a Government which is serious about governing a country, adhering to principles of democratic governance and moving on with the business of the
people by coming to this Parliament and passing legislation in the normal course by a simple majority, which is what these amendments call for and I will not dwell further on that. The cases of Brad Boyce, Humphreys, Boodram and others, have been spoken to very eloquently by my colleagues on the Government side and I will not repeat what has been said.

The amendment Bill before you, Mr. Deputy Speaker, provides a complete, and comprehensive, and legally efficacious suite of amendments which are intended to improve the administration of justice, improve the quality of the criminal justice system so that we can move forward without having persons take advantage of defects in the system, take advantage of laws that were drafted in the 12th Century of the United Kingdom, and to have the Opposition tell us because it was drafted in the 12th Century in the United Kingdom we must leave it on our law books because we say the Opposition have not developed enough to legislate for ourselves in the year 2022. A remarkable submission repeated by more than one Member of the Opposition.

Mr. Deputy Speaker, the Bill, as I have said, and I am not going to dwell on it unduly, is comprehensive. My task, as I say, has been made light. I want to go on record to acknowledge the very hard work of the members and staff of the Office of the Attorney General and Ministry of Legal Affairs.

**Hon. Members:** [Desk thumping]

**Sen. The Hon. R. Armour SC:** And I want to go on record to say and to acknowledge that that hard work was done and began before the 10th of December, 2021, the day on which this Bill was laid on the paper in this House, 19 months ago, Mr. Deputy Speaker, and yet we have Members of the Opposition trying to suggest that this morning they were not ready to speak to this very important piece of legislation.
[MADAM SPEAKER in the Chair]

And the fact that they complained not to have had sufficient time can be no excuse for the fact that when they did purport to speak today in this House, on the legislation, they chose rather than to address the legislation in comprehensive terms, the Bill in comprehensive terms, but rather to deal with it in a less than honest way referring to select sections without doing the job of what legislators should do, looking at the legislation as a whole and advising the population of this country of the totality of legislation, the Bill, which is before this Parliament, which we are asking this House to address. And I acknowledge once again the very comprehensive corrections that have been made to those egregious misdeeds on the part of the Opposition Members in purporting to address this Bill by the remarks that have been preceded by my colleagues before I wind up this afternoon, and in particular the Member for Port of Spain North/St. Ann’s West and the Member for San Fernando West.

I close, Madam Speaker, I close only on one final note. My style as an individual is not to exchange insults and invective, and I will not ever in this House condescend to the level.

Hon. Members: [Desk thumping]

Sen. The Hon. R. Armour SC: I will not ever in this House or in the other place condescend to the level to which the Members on the other side regularly populate and which they wish to lure me into.

Hon. Members: [Desk thumping]

Sen. The Hon. R. Armour SC: And I say only this, in the short period of time that I have had the privilege to serve this country in this House and in the other place, I am deeply saddened to witness live and direct, as my children would say, Members of an august and noble legal profession debasing the profession in this House by
their conduct.

Hon. Members: [Desk thumping]

Sen. The Hon. R. Armour SC: Madam Speaker, thank you very much. I beg to move.

Hon. Members: [Desk thumping]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

Madam Speaker: This Bill has six clauses.

House in committee.

Madam Chairman: Hon. Members, I have been advised by the Whip that there are no amendments. The Government has not circulated any amendments. So that if it is agreeable can we take this all together? Yes?

Clauses 1 to 6 ordered to stand part of the Bill.

Question put and agreed to: That the Bill be reported to the House.

House resumed.

Madam Speaker: Members, while I know we allow for a certain amount of banter, I think our recent history is that the banter is fringing on other things. So for now if we could suspend banter and stick completely, strictly to Standing Order 53. Okay? Maybe in the new session after we have had a little break, we will get back where we should be. Okay. So, Attorney General.

Sen. The Hon. R. Armour SC: Madam Speaker, I wish to report that that the Miscellaneous Provisions (Criminal Proceedings) Bill, 2021, was considered in the committee of a whole and approved without amendments. I now beg to move that the House agree with the committee’s report.

Question put and agreed to.
Question put and agreed to: That the Bill be now read a third time

Bill accordingly read the third time and passed.

TOBAGO COUNCIL FOR HANDICAPPED CHILDREN (INC’N) (AMDT.) BILL, 2022

Question put and agreed to: That a Bill to amend the Tobago Council for Handicapped Children (Inc’n) Act, be now read a second time.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

Madam Speaker: This Bill has two clauses and a preamble.

House in committee.

Clauses 1 and 2 ordered to stand part of the Bill.

Preamble approved.

Question put and agreed to: That the Bill be reported to the House.

House resumed.

Bill reported, without amendment, read the third time and passed.

SRI SATHYA SAI BABA ORGANISATION OF TRINIDAD AND TOBAGO (INC’N) (AMDT.) BILL, 2022

Question put and agreed to: That a Bill to amend Sri Sathya Sai Baba Organisation of Trinidad and Tobago (Inc’n) Act, 1993 (Act. No. 16 of 1993), be now read a second time.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

Madam Speaker: This Bill has two clauses and a preamble.

House in Committee.

Clauses 1 and 2 ordered to stand part of the Bill.

Preamble approved.
Question put and agreed to: That the Bill be reported to the House.

House resumed.

Bill reported, without amendment, read the third time.

SOROPTIMIST CLUB OF PORT OF SPAIN (INC’N) (AMDT.) BILL, 2022

Question put and agreed to: That a Bill to amend Soroptimist Club of Port of Spain (Inc’n) Act, 1972 (Act No. 26 of 1972), be now read a second time.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

Madam Speaker: This Bill has two clauses and a preamble.

House in Committee.

Clauses 1 and 2 ordered to stand part of the Bill.

Preamble approved.

Question put and agreed to: That the Bill be reported to the House.

House resumed.

Bill reported, without amendment, read the third time.

TRINIDAD AND TOBAGO ASSOCIATION FOR RETARDED CHILDREN (INC.) (AMDT.) BILL, 2022

Question put and agreed to: That a Bill to amend the Trinidad and Tobago Association for Retarded Children Ordinance, 1961 (Ordinance No. 15 of 1961), be now read a second time.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

Madam Speaker: This Bill has two clauses and a preamble.

House in Committee.

Clauses 1 and 2 ordered to stand part of the Bill.

Preamble approved.

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Question put and agreed to: That the Bill be reported to the House.

House resumed.

Bill reported, without amendment, read the third time.

USE OF UNPARLIAMENTARY LANGUAGE

Madam Speaker: So before I call upon the Leader of the House, I just want to bring to the attention of the House that a short while ago I got a complaint in writing from the Member for St. Augustine and although the Member is not in the Chamber I do have it in writing, and it is in terms of, this is to bring to my attention words uttered by the Member for Port of Spain North/St. Ann’s West to Members of the Opposition concerning certain words which are words if they have in fact been uttered. The difficulty is that having just got this I did not have the opportunity to play the recording, but these words, if they were in fact uttered, are in fact offensive, insulting and unparliamentary.

Again, what I would say is to the Member for Port of Spain North/St. Ann’s is this, that if it is that you have during the course of this debate uttered words which are in fact, as you may know, constitute words that are offensive, insulting and otherwise unparliamentary, these are not words that I want to place into the record. Okay? That if in fact you have done so, if you would do the honourable thing—we had a great example from the Member for Princes Town today—and withdraw those words and apologize. If it is you have not—because I have not seen it. I have not heard it and you know I have them checking.

If it is you have not, what I want to say to all Members—and it is a pity it is coming at the end, but hopefully we will carry it over—you know we say things, if we could carry it over into the new session. All right? Sometimes in being playful we do cross the line. We all know that we do cross the line. And if it is we cannot keep within the line, then we do not play. All right? We had a little youngster here
today, nine years, we have to impact them by what we do, and certain words which long ago—I was going to say long time—were acceptable are no longer acceptable in today’s environment. So Member for Port of Spain North/St. Ann’s West.

Mr. Young: Madam Speaker, I am uncertain as to what the words are and it is a little bit disappointing that the Member who has filed the complaint is not here to elucidate on it, but nevertheless in the spirit of keeping the House in good and honourable terms, I apologize and withdraw the words that I do not know were uttered.

Hon. Members: [Desk thumping]

Madam Speaker: I thank you, hon. Member. Leader of the House.

ADJOURNMENT

The Minister of Health (Hon. Terrence Deyalsingh): Thank you. Thank you very much, Madam Speaker. Madam Speaker, I beg to move that this House do now adjourn to a date to be fixed. However, Madam Speaker, as we know, the bail Bill is currently before the other place. If that Bill is completed tomorrow, Wednesday, 6th July, we will return on Friday, 8th July to debate same at 1.30 p.m., and time permitting the Government will also do Motion No. 3.

Mr. Imbert: You have proper notice.

Madam Speaker: Okay. So just so that we will all be on the same page, Leader of the House, I take this that this is a notice that you are giving us that will qualify under Standing Order 122?

Hon. T. Deyalsingh: Yes, Madam Speaker.

Madam Speaker: Okay.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 3.30 p.m.

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